

ASSEMBLY BILL

No. 110

Introduced by Assembly Member Laird
(Coauthors: Assembly Members Berg, Evans, Hancock, Jones, and Leno)
(Coauthors: Senators Kehoe and Kuehl)

January 5, 2007

An act to amend Section 121349.3 of, and to add Chapter 1.5 (commencing with Section 120780) to Part 4 of Division 105 of, the Health and Safety Code, relating to the use of state HIV prevention and education funds for distribution of needles and syringes.

LEGISLATIVE COUNSEL'S DIGEST

AB 110, as introduced, Laird. Drug paraphernalia: clean needle and syringe exchange projects.

(1) Existing law, with certain exceptions, makes it a misdemeanor for a person to deliver, furnish, transfer, possess with intent to deliver, furnish, or transfer, or manufacture with the intent to deliver, furnish, or transfer, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Existing law provides an exception to this general rule by authorizing a public entity, its agents, or employees to distribute hypodermic needles or syringes to participants in clean needle and syringe exchange projects authorized by the public entity pursuant to a declaration of a local emergency due to the existence of a critical local public health crisis.

Existing law established the Office of AIDS in the State Department of Health Services. That office, among other functions, provides funding for AIDS prevention and education. Commencing July 1, 2007, the office will be transferred to the State Department of Public Health.

This bill would authorize a public entity that receives General Fund money from the State Department of Public Health for HIV prevention and education to use that money to support clean needle and syringe exchange projects authorized by the public entity. The bill would authorize the money to be used for the purchase of sterile hypodermic needles and syringes. The bill would require funds allocated for that purpose to be based upon epidemiological data as reported by the health jurisdiction in its local HIV prevention plan submitted to the Office of AIDS.

(2) Existing law requires the health officer of the participating jurisdiction to annually present a report on the status of clean needle and syringe exchange programs, including relevant statistics on blood-borne infections.

This bill would require the report to also include the use of public funds for these purposes.

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

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

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

3 (a) The continuing spread of the acquired immunodeficiency
4 syndrome (AIDS) epidemic and the spread of blood-borne hepatitis
5 pose two of the gravest public health threats in California.

6 (b) Injection drug users are the second largest group at risk of
7 becoming infected with the human immunodeficiency virus (HIV)
8 and developing AIDS, and they have been the primary source of
9 heterosexual, female, and perinatal transmission in California, the
10 United States, and Europe.

11 (c) According to the Office of AIDS within the State Department
12 of Public Health, injection drug use continues to be one of the most
13 prevalent risk factors for new HIV and AIDS cases in California.
14 Injection drug users continue to be at high risk of HIV/AIDS and
15 hepatitis infection in California. According to an annual report
16 issued by the Office of AIDS, sharing of contaminated syringes

1 and other injection equipment is linked to 20 percent of all reported
2 AIDS cases in the state through 2003. State data suggests that over
3 1,500 new syringe-sharing HIV infections occur annually.
4 According to recent studies, researchers estimate that an American
5 infected with HIV can expect to live about 24 years, on average,
6 and that the cost of his or her health care during this time period
7 is more than \$600,000.

8 (d) Injection drug users are also highly likely to become infected
9 with hepatitis as a result of hypodermic needle and syringe sharing
10 practices.

11 (e) The Legislature has responded to the spread of HIV and
12 hepatitis among injection drug users by adopting Assembly Bill
13 136 (Ch. 762, Stats. 1999), that permits localities to determine
14 whether or not to operate clean needle and syringe exchange
15 programs. As a result of that legislation, many localities are now
16 operating these programs.

17 (f) These programs have been shown to significantly reduce the
18 transmission of HIV and hepatitis among injection drug users,
19 their sexual partners, and children. Moreover, these programs have
20 been effective in moving individuals into substance abuse treatment
21 programs and in reducing the number of used hypodermic needles
22 and syringes disposed of in public places, which pose a threat to
23 public health and safety.

24 (g) The United States government prohibits the use of federal
25 funds to support the purchase of sterile hypodermic needles and
26 syringes by clean needle and syringe exchange programs.
27 Moreover, the state has not heretofore permitted the use of its funds
28 for the purchase of sterile hypodermic needles and syringes,
29 although current state policy allows state HIV prevention and
30 education funds to be used for costs associated with authorized
31 clean needle and syringe exchange programs, except for the
32 purchase of sterile hypodermic needles and syringes.

33 (h) The ability of clean needle and syringe exchange programs
34 to purchase an adequate supply of sterile hypodermic needles and
35 syringes is essential to California's ability to further reduce the
36 transmission of HIV and hepatitis and to relieve the public cost
37 for the care and treatment of HIV disease and hepatitis.

38 SEC. 2. Chapter 1.5 (commencing with Section 120780) is
39 added to Part 4 of Division 105 of the Health and Safety Code, to
40 read:

1 CHAPTER 1.5. STATE HIV PREVENTION AND EDUCATION FUNDS

2

3 120780. A public entity that receives General Fund money
4 from the State Department of Public Health for HIV prevention
5 and education may use that money to support clean needle and
6 syringe exchange projects authorized by the public entity pursuant
7 to existing law. The money may be used for, but is not limited to,
8 the purchase of sterile hypodermic needles and syringes. Funds
9 allocated for the purchase of sterile hypodermic needles and
10 syringes shall be based upon epidemiological data as reported by
11 the health jurisdiction in its local HIV prevention plan submitted
12 to the Office of AIDS within the department.

13 SEC. 3. Section 121349.3 of the Health and Safety Code is
14 amended to read:

15 121349.3. The health officer of the participating jurisdiction
16 shall present annually at an open meeting of the board of
17 supervisors or city council a report detailing the status of clean
18 needle and syringe exchange programs including, but not limited
19 to, relevant statistics on blood-borne infections associated with
20 needle sharing activity *and the use of public funds for these*
21 *programs*. Law enforcement, administrators of alcohol and drug
22 treatment programs, other stakeholders, and the public shall be
23 afforded ample opportunity to comment at this annual meeting.
24 The notice to the public shall be sufficient to assure adequate
25 participation in the meeting by the public. This meeting shall be
26 noticed in accordance with all state and local open meeting laws
27 and ordinances, and as local officials deem appropriate.

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ASSEMBLY BILL

No. 249

Introduced by Assembly Member Eng

February 1, 2007

An act to add Section 809.10 to, and to repeal Section 2220.7 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 249, as introduced, Eng. Licensees: healing arts: settlement agreements.

Existing law prohibits a physician and surgeon from including or permitting to be included specified provisions in a settlement agreement arising from his or her practice regardless of whether the agreement is made before or after filing the civil action. Under existing law, a physician and surgeon who violates this requirement is subject to disciplinary action by the Medical Board of California.

This bill would continue to impose that prohibition on physicians and surgeons and would additionally impose it on other healing arts practitioners and would also make them subject to disciplinary action.

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 809.10 is added to the Business and
- 2 Professions Code, to read:
- 3 809.10. (a) No person who is licensed, certified, or registered
- 4 by a board under this division, nor an entity or person acting as an
- 5 authorized agent of that person, shall include or permit to be

1 included any of the following provisions in an agreement to settle
2 a civil dispute, whether the agreement is made before or after the
3 commencement of a civil action:

4 (1) A provision that prohibits the other party in that dispute
5 from contacting or cooperating with the department or board.

6 (2) A provision that prohibits the other party in that dispute
7 from filing a complaint with the department or board.

8 (3) A provision that requires the other party in that dispute to
9 withdraw a complaint from the department or board. This type of
10 provision is void as against public policy.

11 (b) A licensed, certified, or registered person who violates this
12 section is subject to disciplinary action by the appropriate board.

13 SEC. 2. Section 2220.7 of the Business and Professions Code
14 is repealed.

15 ~~2220.7. (a) A physician and surgeon shall not include or permit
16 to be included any of the following provisions in an agreement to
17 settle a civil dispute arising from his or her practice, whether the
18 agreement is made before or after filing the action:~~

19 ~~(1) A provision that prohibits another party to the dispute from
20 contacting or cooperating with the board.~~

21 ~~(2) A provision that prohibits another party to the dispute from
22 filing a complaint with the board.~~

23 ~~(3) A provision that requires another party to the dispute to
24 withdraw a complaint he or she has filed with the board.~~

25 ~~(b) A provision described in subdivision (a) is void as against
26 public policy.~~

27 ~~(c) A physician and surgeon who violates this section is subject
28 to disciplinary action by the board.~~

ASSEMBLY BILL

No. 501

Introduced by Assembly Members Swanson and Hancock

February 20, 2007

An act to add Section 119404 to the Health and Safety Code, relating to pharmaceutical devices.

LEGISLATIVE COUNSEL'S DIGEST

AB 501, as introduced, Swanson. Pharmaceutical devices.

The existing Medical Waste Management Act, administered by the State Department of Health Services, regulates the management and handling of medical waste, as defined. Effective July 1, 2007, these duties will be transferred to the State Department of Public Health. Under existing law, certain items, such as home-generated sharps waste, as defined, are specifically excluded from the definition of medical waste. The act also prohibits, on or after September 1, 2008, a person from knowingly placing home-generated sharps waste in certain types of containers, provides that home-generated sharps waste is to be transported only in a sharps container, as defined, or other container approved by the department or local enforcement agency, and requires this waste to only be managed at specified locations consistent with existing law.

This bill would require a pharmaceutical company whose product is dispensed through a prefilled syringe, prefilled pen needle, or other prefilled injection device to provide each person for whom the product is prescribed with a specified method for the patient to safely dispose of the syringe, pen needle, or other injection device.

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 Legislature finds and declares all of the
2 following:

3 (a) An estimated 1 million Californians must self-inject
4 prescription medications annually to treat a broad range of serious
5 health problems.

6 (b) The use of prefilled syringes, pens, and devices with needles
7 is an effective method of prescription drug delivery and is expected
8 to increase significantly in the future.

9 (c) The increased use of prefilled syringes, pens, and devices
10 with needles will generate millions of home-generated sharps each
11 year. If improperly disposed in solid waste and recycling containers
12 these needles will result in significant public health risks.

13 (d) The Legislature has found that sharps mail-back programs
14 utilizing containers and packaging approved by the United States
15 Postal Service offer one of the most convenient means for
16 collecting and destroying home-generated sharps and that the
17 cooperative efforts of the pharmaceutical industry is needed to
18 develop a safe needle disposal system for California.

19 SEC. 2. Section 119404 is added to the Health and Safety Code,
20 to read:

21 119404. (a) Every pharmaceutical company whose product is
22 dispensed through a prefilled syringe, prefilled pen needle, or other
23 prefilled injection device shall provide each person for whom the
24 product is prescribed in this state with a method described in this
25 section to safely dispose of the syringe, pen needle, or other
26 injection device. If the person receives this syringe, pen needle,
27 or other injection device as part of a patient starter kit, the
28 pharmaceutical company shall make available to the person, at no
29 additional charge, a postage prepaid, mail-back sharps container
30 by including this container or a coupon for this container in the
31 patient starter kit or by providing the person with a distribution
32 point chosen by the pharmaceutical company. The pharmaceutical
33 company shall also make available, at no additional charge and
34 through an annually renewable program, postage prepaid, mail-back
35 sharps containers to any person who uses this pharmaceutical
36 company's product.

37 (b) For purposes of this section, the following definitions shall
38 apply:

1 (1) "Coupon" means any written material that allows a person
2 who uses a pharmaceutical company's product pursuant to a
3 prescription to receive a postage prepaid, mail-back sharps
4 container from a distribution point chosen by the pharmaceutical
5 company.

6 (2) "Patient starter kit" means a package of educational, training,
7 or otherwise instructional materials prepared by, or on behalf of,
8 the pharmaceutical company to educate a person on how to safely
9 use the pharmaceutical company's self-injectable pharmaceutical
10 product.

11 (3) "Sharps container" has the same meaning as in Section
12 117750.

ASSEMBLY BILL

No. 543

**Introduced by Assembly Member Plescia
(Coauthor: Assembly Member Jones)**

February 21, 2007

An act to amend Sections 2472 and 4190 of the Business and Professions Code, to amend Sections 1204, 1206, 1214.1, 1226, 1226.5, 1233, 1242, and 1248.1 of, and to add Section 1204.2 to, the Health and Safety Code, and to amend Section 139.3 of the Labor Code, relating to health clinics.

LEGISLATIVE COUNSEL'S DIGEST

AB 543, as introduced, Plescia. Ambulatory surgical centers: licensure.

Existing law, with certain exceptions, provides for the licensure and regulation of health facilities and clinics, including specialty clinics, by the State Department of Health Services. Existing law defines a specialty clinic to include a surgical clinic that is not part of a hospital and that provides ambulatory surgical care for patients who remain less than 24 hours. A violation of these provisions is a crime.

This bill would redesignate a surgical clinic as an ambulatory surgical center for purposes of these licensure and regulatory requirements and would make various conforming changes.

This bill would also require the department to issue or renew an ambulatory surgical center license upon submission of a specified accreditation or, if the applicant chooses to participate in the Medicare Program, a specified certification, but would exempt certain licensees from this requirement until January 1, 2013.

This bill would also permit the department to make inspections and investigations of ambulatory surgical centers, as necessary.

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 2472 of the Business and Professions
2 Code is amended to read:

3 2472. (a) The certificate to practice podiatric medicine
4 authorizes the holder to practice podiatric medicine.

5 (b) As used in this chapter, "podiatric medicine" means the
6 diagnosis, medical, surgical, mechanical, manipulative, and
7 electrical treatment of the human foot, including the ankle and
8 tendons that insert into the foot and the nonsurgical treatment of
9 the muscles and tendons of the leg governing the functions of the
10 foot.

11 (c) A doctor of podiatric medicine may not administer an
12 anesthetic other than local. If an anesthetic other than local is
13 required for any procedure, the anesthetic shall be administered
14 by another licensed health care practitioner who is authorized to
15 administer the required anesthetic within the scope of his or her
16 practice.

17 (d) (1) A doctor of podiatric medicine who is ankle certified
18 by the board on and after January 1, 1984, may do the following:

19 (A) Perform surgical treatment of the ankle and tendons at the
20 level of the ankle pursuant to subdivision (e).

21 (B) Perform services under the direct supervision of a physician
22 and surgeon, as an assistant at surgery, in surgical procedures that
23 are otherwise beyond the scope of practice of a doctor of podiatric
24 medicine.

25 (C) Perform a partial amputation of the foot no further proximal
26 than the Chopart's joint.

27 (2) Nothing in this subdivision shall be construed to permit a
28 doctor of podiatric medicine to function as a primary surgeon for
29 any procedure beyond his or her scope of practice.

30 (e) A doctor of podiatric medicine may perform surgical
31 treatment of the ankle and tendons at the level of the ankle only
32 in the following locations:

1 (1) A licensed general acute care hospital, as defined in Section
2 1250 of the Health and Safety Code.

3 (2) A licensed *ambulatory surgical-clinic center*, as defined in
4 Section 1204 of the Health and Safety Code, if the doctor of
5 podiatric medicine has surgical privileges, including the privilege
6 to perform surgery on the ankle, in a general acute care hospital
7 described in paragraph (1) and meets all the protocols of the
8 *ambulatory surgical-clinic center*.

9 (3) An ambulatory surgical center that is certified to participate
10 in the Medicare Program under Title XVIII (42 U.S.C. Sec. 1395
11 et seq.) of the federal Social Security Act, if the doctor of podiatric
12 medicine has surgical privileges, including the privilege to perform
13 surgery on the ankle, in a general acute care hospital described in
14 paragraph (1) and meets all the protocols of the *ambulatory surgical*
15 *center*.

16 (4) A freestanding physical plant housing outpatient services
17 of a licensed general acute care hospital, as defined in Section
18 1250 of the Health and Safety Code, if the doctor of podiatric
19 medicine has surgical privileges, including the privilege to perform
20 surgery on the ankle, in a general acute care hospital described in
21 paragraph (1). For purposes of this section, a “freestanding physical
22 plant” means any building that is not physically attached to a
23 building where inpatient services are provided.

24 (5) An outpatient setting accredited pursuant to subdivision (g)
25 of Section 1248.1 of the Health and Safety Code.

26 (f) A doctor of podiatric medicine shall not perform an admitting
27 history and physical examination of a patient in an acute care
28 hospital where doing so would violate the regulations governing
29 the Medicare-program *Program*.

30 (g) A doctor of podiatric medicine licensed under this chapter
31 is a licentiate for purposes of paragraph (2) of subdivision (a) of
32 Section 805, and thus is a health care practitioner subject to the
33 provisions of Section 2290.5 pursuant to subdivision (b) of that
34 section.

35 SEC. 2. Section 4190 of the Business and Professions Code is
36 amended to read:

37 4190. (a) Notwithstanding any provision of this chapter, ~~a~~ *an*
38 *ambulatory surgical-clinic, as defined in center, licensed pursuant*
39 *to paragraph (1) of subdivision (b) of Section 1204 of the Health*
40 *and Safety Code, accredited by an accreditation agency as defined*

1 in Section 1248 of the Health and Safety Code, or certified to
2 participate in the Medicare Program under Title XVIII (42 U.S.C.
3 Sec. 1395 et seq.) of the federal Social Security Act, may purchase
4 drugs at wholesale for administration or dispensing, under the
5 direction of a physician, to patients registered for care at the ~~clinic~~
6 center, as provided in subdivision (b). The ~~clinic~~ center shall keep
7 records of the kind and amounts of drugs purchased, administered,
8 and dispensed, and the records shall be available and maintained
9 for a minimum of three years for inspection by all properly
10 authorized personnel.

11 (b) The drug distribution service of ~~a~~ an ambulatory surgical
12 ~~clinic~~ center shall be limited to the use of drugs for administration
13 to the patients of the ambulatory surgical ~~clinic~~ center and to the
14 dispensing of drugs for the control of pain and nausea for patients
15 of the ~~clinic~~ center. Drugs shall not be dispensed in an amount
16 greater than that required to meet the patient's needs for 72 hours.
17 Drugs for administration shall be those drugs directly applied,
18 whether by injection, inhalation, ingestion, or any other means, to
19 the body of a patient for his or her immediate needs.

20 (c) No ambulatory surgical ~~clinic~~ center shall operate without
21 a license issued by the board nor shall it be entitled to the benefits
22 of this section until it has obtained a license from the board. A
23 separate license shall be required for each ~~clinic~~ center location.
24 A ~~clinic~~ center shall notify the board of any change in the ~~clinic's~~
25 center's address on a form furnished by the board.

26 (d) Any proposed change in ownership or beneficial interest in
27 the licensee shall be reported to the board, on a form to be furnished
28 by the board, at least 30 days prior to the execution of any
29 agreement to purchase, sell, exchange, gift or otherwise transfer
30 any ownership or beneficial interest or prior to any transfer of
31 ownership or beneficial interest, whichever occurs earlier.

32 SEC. 3. Section 1204 of the Health and Safety Code is amended
33 to read:

34 1204. Clinics eligible for licensure pursuant to this chapter are
35 primary care clinics and specialty clinics.

36 (a) (1) Only the following defined classes of primary care
37 clinics shall be eligible for licensure:

38 (A) A "community clinic" means a clinic operated by a
39 tax-exempt nonprofit corporation that is supported and maintained
40 in whole or in part by donations, bequests, gifts, grants, government

1 funds or contributions, that may be in the form of money, goods,
2 or services. In a community clinic, any charges to the patient shall
3 be based on the patient's ability to pay, utilizing a sliding fee scale.
4 No corporation other than a nonprofit corporation, exempt from
5 federal income taxation under paragraph (3) of subsection (c) of
6 Section 501 of the Internal Revenue Code of 1954 as amended, or
7 a statutory successor thereof, shall operate a community clinic;
8 provided, that the licensee of any community clinic so licensed on
9 the effective date of this section shall not be required to obtain
10 tax-exempt status under either federal or state law in order to be
11 eligible for, or as a condition of, renewal of its license. No natural
12 person or persons shall operate a community clinic.

13 (B) A "free clinic" means a clinic operated by a tax-exempt,
14 nonprofit corporation supported in whole or in part by voluntary
15 donations, bequests, gifts, grants, government funds or
16 contributions, that may be in the form of money, goods, or services.
17 In a free clinic there shall be no charges directly to the patient for
18 services rendered or for drugs, medicines, appliances, or
19 apparatuses furnished. No corporation other than a nonprofit
20 corporation exempt from federal income taxation under paragraph
21 (3) of subsection (c) of Section 501 of the Internal Revenue Code
22 of 1954 as amended, or a statutory successor thereof, shall operate
23 a free clinic; provided, that the licensee of any free clinic so
24 licensed on the effective date of this section shall not be required
25 to obtain tax-exempt status under either federal or state law in
26 order to be eligible for, or as a condition of, renewal of its license.
27 No natural person or persons shall operate a free clinic.

28 (2) Nothing in this subdivision shall prohibit a community clinic
29 or a free clinic from providing services to patients whose services
30 are reimbursed by third-party payers, or from entering into
31 managed care contracts for services provided to private or public
32 health plan subscribers, as long as the clinic meets the requirements
33 identified in subparagraphs (A) and (B). For purposes of this
34 subdivision, any payments made to a community clinic by a
35 third-party payer, including, but not limited to, a health care service
36 plan, shall not constitute a charge to the patient. This paragraph is
37 a clarification of existing law.

38 (b) The following types of specialty clinics shall be eligible for
39 licensure as specialty clinics pursuant to this chapter:

1 (1) ~~A “surgical clinic”~~ An “ambulatory surgical center” means
2 a clinic that is not part of a hospital and that provides ambulatory
3 surgical care for patients who remain less than 24 hours. ~~An~~
4 ~~ambulatory surgical-clinic center~~ does not include any place or
5 establishment owned or leased and operated as a clinic or office
6 by one or more physicians or dentists in individual or group
7 practice, regardless of the name used publicly to identify the place
8 or establishment, provided, however, that physicians or dentists
9 may, at their option, apply for licensure.

10 (2) A “chronic dialysis clinic” means a clinic that provides less
11 than 24-hour care for the treatment of patients with end-stage renal
12 disease, including renal dialysis services.

13 (3) A “rehabilitation clinic” means a clinic that, in addition to
14 providing medical services directly, also provides physical
15 rehabilitation services for patients who remain less than 24 hours.
16 Rehabilitation clinics shall provide at least two of the following
17 rehabilitation services: physical therapy, occupational therapy,
18 social, speech pathology, and audiology services. A rehabilitation
19 clinic does not include the offices of a private physician in
20 individual or group practice.

21 (4) An “alternative birth center” means a clinic that is not part
22 of a hospital and that provides comprehensive perinatal services
23 and delivery care to pregnant women who remain less than 24
24 hours at the facility.

25 SEC. 4. Section 1204.2 is added to the Health and Safety Code,
26 to read:

27 1204.2. (a) Notwithstanding Section 1248, the department
28 shall issue or renew an ambulatory surgical center license upon
29 submission of documentation that the applicant has an accreditation
30 by an accreditation agency, as defined in Section 1248, and, if the
31 applicant chooses to participate in the Medicare Program, a
32 certification to participate in the Medicare Program under Title
33 XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security
34 Act.

35 (b) Notwithstanding subdivision (a), and until January 1, 2013,
36 an ambulatory surgical center that has a valid, unrevoked, surgical
37 clinic license issued prior to December 31, 2007, shall be subject
38 to the licensure requirements for a surgical clinic in effect prior to
39 January 1, 2008.

1 (c) The department may make inspections and investigations
2 as it deems necessary to investigate complaints, follow up on
3 adverse survey findings, or conduct periodic validation surveys.

4 SEC. 5. Section 1206 of the Health and Safety Code is amended
5 to read:

6 1206. This chapter does not apply to the following:

7 (a) Except with respect to the option provided with regard to
8 ~~ambulatory surgical-clinic centers described~~ in paragraph (1) of
9 subdivision (b) of Section 1204 and further, with respect to
10 ~~specialty chronic dialysis clinics-specified~~ described in paragraph
11 (2) of subdivision (b) of Section 1204, any place or establishment
12 owned or leased and operated as a clinic or office by one or more
13 licensed health care practitioners and used as an office for the
14 practice of their profession, within the scope of their license,
15 regardless of the name used publicly to identify the place or
16 establishment.

17 (b) Any clinic directly conducted, maintained, or operated by
18 the United States or by any of its departments, officers, or agencies,
19 and any primary care clinic specified in subdivision (a) of Section
20 1204 that is directly conducted, maintained, or operated by this
21 state or by any of its political subdivisions or districts, or by any
22 city. Nothing in this subdivision precludes the ~~state~~ department
23 from adopting regulations that utilize clinic licensing standards as
24 eligibility criteria for participation in programs funded wholly or
25 partially under Title XVIII or XIX of the federal Social Security
26 Act.

27 (c) Any clinic conducted, maintained, or operated by a federally
28 recognized Indian tribe or tribal organization, as defined in Section
29 ~~450 450b~~ or ~~1601 1603~~ of Title 25 of the United States Code, that
30 is located on land recognized as tribal land by the federal
31 government.

32 (d) Clinics conducted, operated, or maintained as outpatient
33 departments of hospitals.

34 (e) Any facility licensed as a health facility under Chapter 2
35 (commencing with Section 1250).

36 (f) Any freestanding clinical or pathological laboratory licensed
37 under Chapter 3 (commencing with Section 1200) of Division 2
38 of the Business and Professions Code.

39 (g) A clinic operated by, or affiliated with, any institution of
40 learning that teaches a recognized healing art and is approved by

1 the state board or commission vested with responsibility for
2 regulation of the practice of that healing art.

3 (h) A clinic that is operated by a primary care community or
4 free clinic and that is operated on separate premises from the
5 licensed clinic and is only open for limited services of no more
6 than 20 hours a week. An intermittent clinic as described in this
7 subdivision shall, however, meet all other requirements of law,
8 including administrative regulations and requirements, pertaining
9 to fire and life safety.

10 (i) The offices of physicians in group practice who provide a
11 preponderance of their services to members of a comprehensive
12 group practice prepayment health care service plan subject to
13 Chapter 2.2 (commencing with Section 1340).

14 (j) Student health centers operated by public institutions of
15 higher education.

16 (k) Nonprofit speech and hearing centers, as defined in Section
17 1201.5. Any nonprofit speech and hearing clinic desiring an
18 exemption under this subdivision shall make application therefor
19 to the director, who shall grant the exemption to any facility
20 meeting the criteria of Section 1201.5. Notwithstanding the
21 licensure exemption contained in this subdivision, a nonprofit
22 speech and hearing center shall be deemed to be an organized
23 outpatient clinic for purposes of qualifying for reimbursement as
24 a rehabilitation center under the Medi-Cal Act (Chapter 7
25 (commencing with Section 14000) of Part 3 of Division 9 of the
26 Welfare and Institutions Code).

27 (l) A clinic operated by a nonprofit corporation exempt from
28 federal income taxation under paragraph (3) of subsection (c) of
29 Section 501 of the Internal Revenue Code of 1954, as amended,
30 or a statutory successor thereof, that conducts medical research
31 and health education and provides health care to its patients through
32 a group of 40 or more physicians and surgeons, who are
33 independent contractors representing not less than 10
34 board-certified specialties, and not less than two-thirds of whom
35 practice on a full-time basis at the clinic.

36 (m) Any clinic, limited to in vivo diagnostic services by
37 magnetic resonance imaging functions or radiological services
38 under the direct and immediate supervision of a physician and
39 surgeon who is licensed to practice in California. This shall not

1 be construed to permit cardiac catheterization or any treatment
2 modality in these clinics.

3 (n) A clinic operated by an employer or jointly by two or more
4 employers for their employees only, or by a group of employees,
5 or jointly by employees and employers, without profit to the
6 operators thereof or to any other person, for the prevention and
7 treatment of accidental injuries to, and the care of the health of,
8 the employees comprising the group.

9 (o) A community mental health center, as defined in Section
10 ~~5601.5~~ 5667 of the Welfare and Institutions Code.

11 (p) (1) A clinic operated by a nonprofit corporation exempt
12 from federal income taxation under paragraph (3) of subsection
13 (c) of Section 501 of the Internal Revenue Code of 1954, as
14 amended, or a statutory successor thereof, as an entity organized
15 and operated exclusively for scientific and charitable purposes and
16 that satisfied all of the following requirements on or before January
17 1, 2005:

18 (A) Commenced conducting medical research on or before
19 January 1, 1982, and continues to conduct medical research.

20 (B) Conducted research in, among other areas, prostatic cancer,
21 cardiovascular disease, electronic neural prosthetic devices,
22 biological effects and medical uses of lasers, and human magnetic
23 resonance imaging and spectroscopy.

24 (C) Sponsored publication of at least 200 medical research
25 articles in peer-reviewed publications.

26 (D) Received grants and contracts from the National Institutes
27 of Health.

28 (E) Held and licensed patents on medical technology.

29 (F) Received charitable contributions and bequests totaling at
30 least five million dollars (\$5,000,000).

31 (G) Provides health care services to patients only:

32 (i) In conjunction with research being conducted on procedures
33 or applications not approved or only partially approved for payment

34 (I) under the Medicare ~~program~~ *Program* pursuant to Section ~~1359~~
35 1395y(a)(1)(A) of Title 42 of the United States Code, or (II) by a
36 health care service plan registered under Chapter 2.2 (commencing
37 with Section 1340), or a disability insurer regulated under Chapter
38 1 (commencing with Section 10110) of Part 2 of Division 2 of the
39 Insurance Code; provided that services may be provided by the
40 clinic for an additional period of up to three years following the

1 approvals, but only to the extent necessary to maintain clinical
2 expertise in the procedure or application for purposes of actively
3 providing training in the procedure or application for physicians
4 and surgeons unrelated to the clinic.

5 (ii) Through physicians and surgeons who, in the aggregate,
6 devote no more than 30 percent of their professional time for the
7 entity operating the clinic, on an annual basis, to direct patient care
8 activities for which charges for professional services are paid.

9 (H) Makes available to the public the general results of its
10 research activities on at least an annual basis, subject to good faith
11 protection of proprietary rights in its intellectual property.

12 (I) Is a freestanding clinic, whose operations under this
13 subdivision are not conducted in conjunction with any affiliated
14 or associated health clinic or facility defined under this division,
15 except a clinic exempt from licensure under subdivision (m). For
16 purposes of this subparagraph, a freestanding clinic is defined as
17 “affiliated” only if it directly, or indirectly through one or more
18 intermediaries, controls, or is controlled by, or is under common
19 control with, a clinic or health facility defined under this division,
20 except a clinic exempt from licensure under subdivision (m). For
21 purposes of this subparagraph, a freestanding clinic is defined as
22 “associated” only if more than 20 percent of the directors or trustees
23 of the clinic are also the directors or trustees of any individual
24 clinic or health facility defined under this division, except a clinic
25 exempt from licensure under subdivision (m). Any activity by a
26 clinic under this subdivision in connection with an affiliated or
27 associated entity shall fully comply with the requirements of this
28 subdivision. This subparagraph shall not apply to agreements
29 between a clinic and any entity for purposes of coordinating
30 medical research.

31 (2) By January 1, 2007, and every five years thereafter, the
32 Legislature shall receive a report from each clinic meeting the
33 criteria of this subdivision and any other interested party
34 concerning the operation of the clinic’s activities. The report shall
35 include, but not be limited to, an evaluation of how the clinic
36 impacted competition in the relevant health care market, and a
37 detailed description of the clinic’s research results and the level
38 of acceptance by the payer community of the procedures performed
39 at the clinic. The report shall also include a description of
40 procedures performed both in clinics governed by this subdivision

1 and those performed in other settings. The cost of preparing the
2 reports shall be borne by the clinics that are required to submit
3 them to the Legislature pursuant to this paragraph.

4 SEC. 6. Section 1214.1 of the Health and Safety Code is
5 amended to read:

6 1214.1. Notwithstanding the provisions of Section 1214, each
7 application for a *an ambulatory surgical-clinic center* or a chronic
8 dialysis clinic under this chapter for an initial license, renewal
9 license, license upon change of ownership, or special permit shall
10 be accompanied by an annual Licensing and Certification Program
11 fee set in accordance with Section 1266.

12 SEC. 7. Section 1226 of the Health and Safety Code is amended
13 to read:

14 1226. (a) The regulations shall prescribe the kinds of services
15 which may be provided by clinics in each category of licensure
16 and shall prescribe minimum standards of adequacy, safety, and
17 sanitation of the physical plant and equipment, minimum standards
18 for staffing with duly qualified personnel, and minimum standards
19 for providing the services offered. These minimum standards shall
20 be based on the type of facility, the needs of the patients served,
21 and the types and levels of services provided.

22 (b) The Office of Statewide Health Planning and Development,
23 in consultation with the Community Clinics Advisory Committee,
24 shall prescribe minimum construction standards of adequacy and
25 safety for the physical plant of clinics as found in the California
26 Building Standards Code.

27 (c) A city or county, as applicable, shall have plan review and
28 building inspection responsibilities for the construction or alteration
29 of buildings described in paragraph (1) and paragraph (2) of
30 subdivision (b) of Section 1204 and shall apply the provisions of
31 the latest edition of the California Building Standards Code in
32 conducting these plan review responsibilities. For these buildings,
33 construction and alteration shall include conversion of a building
34 to a purpose specified in paragraphs (1) and (2) of subdivision (b)
35 of Section 1204.

36 Upon the initial submittal to a city or county by the governing
37 authority or owner of these clinics for plan review and building
38 inspection services, the city or county shall reply in writing to the
39 clinic whether or not the plan review by the city or county will
40 include a certification as to whether or not the clinic project

1 submitted for plan review meets the standards as propounded by
2 the office in the California Building Standards Code.

3 If the city or county indicates that its review will include this
4 certification it shall do all of the following:

5 (1) Apply the applicable clinic provisions of the latest edition
6 of the California Building Standards Code.

7 (2) Certify in writing, to the applicant within 30 days of
8 completion of construction whether or not these standards have
9 been met.

10 (d) If upon initial submittal, the city or county indicates that its
11 plan review will not include this certification, the governing
12 authority or owner of the clinic shall submit the plans to the Office
13 of Statewide Health Planning and Development ~~who~~ *which* shall
14 review the plans for certification whether or not the clinic project
15 meets the standards, as propounded by the office in California
16 Building Standards Code.

17 (e) When the office performs review for certification, the office
18 shall charge a fee in an amount that does not exceed its actual
19 costs.

20 (f) The office of the State Fire Marshal shall prescribe minimum
21 safety standards for fire and life safety in *ambulatory surgical*
22 ~~clinics centers~~.

23 (g) Notwithstanding subdivision (c), the governing authority or
24 owner of a clinic may request the office to perform plan review
25 services for buildings described in subdivision (c). If the office
26 agrees to perform these services, after consultation with the local
27 building official, the office shall charge an amount not to exceed
28 its actual costs. The construction or alteration of these buildings
29 shall conform to the applicable provisions of the latest edition of
30 the California Building Standards Code for purposes of the plan
31 review by the office pursuant to this subdivision.

32 (h) Regulations adopted pursuant to this chapter establishing
33 standards for laboratory services shall not be applicable to any
34 clinic that operates a clinical laboratory licensed pursuant to
35 Section 1265 of the Business and Professions Code.

36 SEC. 8. Section 1226.5 of the Health and Safety Code is
37 amended to read:

38 1226.5. (a) It is the intent of the Legislature to establish seismic
39 safety standards for facilities licensed as *ambulatory surgical*
40 ~~clinics~~ *centers* pursuant to this chapter, and for facilities certified for

1 participation in the federal Medicare—program *Program* as
2 ambulatory surgical centers, which accommodate surgical patients
3 under general anesthesia, but are not required to remain open and
4 usable after an earthquake to accommodate emergency patients.

5 (b) A facility described in subdivision (a) which, after January
6 1, 1991, anchors fixed medical equipment to the floor or roof of
7 the facility with a gross operating weight of more than 400 pounds
8 or anchors fixed medical equipment to the walls or ceiling with a
9 gross operating weight of more than 20 pounds shall retain the
10 services of an architect licensed in California, a structural engineer
11 licensed in California, or a civil engineer registered in California
12 to assure that the equipment is anchored in such a manner to meet
13 the requirements of an occupancy importance factor of 1.00, as
14 set forth in Title 24 of the California Code of Regulations.

15 (c) A facility described in subdivision (a) which retains the
16 services of an architect or engineer for the anchorage of fixed
17 medical equipment shall keep available for inspection by the
18 department for a period of five years following the installation, a
19 current written certification from the architect or engineer that the
20 equipment is mounted in accordance with the applicable
21 requirements.

22 SEC. 9. Section 1233 of the Health and Safety Code is amended
23 to read:

24 1233. ~~A~~An ambulatory surgical—~~clinic~~ center may restrict use
25 of its facilities to members of the medical staff of the ambulatory
26 surgical—~~clinic~~ center and other physicians and surgeons approved
27 by the medical staff to practice at the—~~clinic~~ center.

28 SEC. 10. Section 1242 of the Health and Safety Code is
29 amended to read:

30 1242. The director may temporarily suspend any license issued
31 to a specialty clinic or special permit prior to any hearing, when
32 in his *or her* opinion—~~such~~ *this* action is necessary to protect the
33 public welfare. The director shall notify the licensee or holder of
34 a special permit of the temporary suspension and the effective date
35 thereof, and at the same time shall serve such provider with an
36 accusation. Upon receipt of a notice of defense by the licensee or
37 holder of a special permit, the director shall set the matter for
38 hearing within 30 days after receipt of such notice. The temporary
39 suspension shall remain in effect until—~~such~~ *the time as* when the
40 hearing is completed and the director has made a final

1 determination on the merits; provided, however, that the temporary
2 suspension shall be deemed vacated if the director fails to make a
3 final determination on the merits within 60 days after the original
4 hearing has been completed.

5 If the provisions of this chapter or the rules or regulations
6 promulgated by the director are violated by a licensed *ambulatory*
7 ~~surgical-clinic~~ *center* or chronic dialysis clinic or holder of a special
8 permit which is a group, corporation, or other association, the
9 director may suspend the license or special permit of ~~such the~~
10 organization or may suspend the license or special permit as to
11 any individual person within ~~such the~~ organization who is
12 responsible for ~~such the~~ violation.

13 SEC. 11. Section 1248.1 of the Health and Safety Code is
14 amended to read:

15 1248.1. No association, corporation, firm, partnership, or person
16 shall operate, manage, conduct, or maintain an outpatient setting
17 in this state, unless the setting is one of the following:

18 (a) An ambulatory surgical center that is certified to participate
19 in the Medicare ~~program~~ *Program* under Title XVIII (42 U.S.C.
20 Sec. 1395 et seq.) of the federal Social Security Act.

21 (b) Any clinic conducted, maintained, or operated by a federally
22 recognized Indian tribe or tribal organization, as defined in Section
23 450 or 1601 of Title 25 of the United States Code, and located on
24 land recognized as tribal land by the federal government.

25 (c) Any clinic directly conducted, maintained, or operated by
26 the United States or by any of its departments, officers, or agencies.

27 (d) Any primary care clinic licensed under subdivision (a) ~~and~~
28 *of Section 1204 or any ambulatory surgical-clinic center* licensed
29 under subdivision (b) of Section 1204.

30 (e) Any health facility licensed as a general acute care hospital
31 under Chapter 2 (commencing with Section 1250).

32 (f) Any outpatient setting to the extent that it is used by a dentist
33 or physician and surgeon in compliance with Article 2.7
34 (commencing with Section 1646) or Article 2.8 (commencing with
35 Section 1647) of Chapter 4 of Division 2 of the Business and
36 Professions Code.

37 (g) An outpatient setting accredited by an accreditation agency
38 approved by the division pursuant to this chapter.

39 (h) A setting, including, but not limited to, a mobile van, in
40 which equipment is used to treat patients admitted to a facility

1 described in subdivision (a), (d), or (e), and in which the procedures
2 performed are staffed by the medical staff of, or other ~~healthcare~~
3 *health care* practitioners with clinical privileges at, the facility and
4 are subject to the peer review process of the facility but which
5 setting is not a part of a facility described in subdivision (a), (d),
6 or (e).

7 Nothing in this section shall relieve an association, corporation,
8 firm, partnership, or person from complying with all other
9 provisions of law that are otherwise applicable.

10 SEC. 12. Section 139.3 of the Labor Code is amended to read:

11 139.3. (a) Notwithstanding any other provision of law, to the
12 extent those services are paid pursuant to Division 4 (commencing
13 with Section 3200), it is unlawful for a physician to refer a person
14 for clinical laboratory, diagnostic nuclear medicine, radiation
15 oncology, physical therapy, physical rehabilitation, psychometric
16 testing, home infusion therapy, outpatient surgery, or diagnostic
17 imaging goods or services, whether for treatment or medical-legal
18 purposes, if the physician, or his or her immediate family, has a
19 financial interest with the person or in the entity that receives the
20 referral.

21 (b) For purposes of this section and Section 139.31, the
22 following shall apply:

23 (1) "Diagnostic imaging" includes, but is not limited to, all
24 X-ray, computed axial tomography magnetic resonance imaging,
25 nuclear medicine, positron emission tomography, mammography,
26 and ultrasound goods and services.

27 (2) "Immediate family" includes the spouse and children of the
28 physician, the parents of the physician, and the spouses of the
29 children of the physician.

30 (3) "Physician" means a physician as defined in Section 3209.3.

31 (4) A "financial interest" includes, but is not limited to, any
32 type of ownership, interest, debt, loan, lease, compensation,
33 remuneration, discount, rebate, refund, dividend, distribution,
34 subsidy, or other form of direct or indirect payment, whether in
35 money or otherwise, between a licensee and a person or entity to
36 whom the physician refers a person for a good or service specified
37 in subdivision (a). A financial interest also exists if there is an
38 indirect relationship between a physician and the referral recipient,
39 including, but not limited to, an arrangement whereby a physician
40 has an ownership interest in any entity that leases property to the

1 referral recipient. Any financial interest transferred by a physician
2 to, or otherwise established in, any person or entity for the purpose
3 of avoiding the prohibition of this section shall be deemed a
4 financial interest of the physician.

5 (5) A “physician’s office” is either of the following:

6 (A) An office of a physician in solo practice.

7 (B) An office in which the services or goods are personally
8 provided by the physician or by employees in that office, or
9 personally by independent contractors in that office, in accordance
10 with other provisions of law. Employees and independent
11 contractors shall be licensed or certified when that licensure or
12 certification is required by law.

13 (6) The “office of a group practice” is an office or offices in
14 which two or more physicians are legally organized as a
15 partnership, professional corporation, or not-for-profit corporation
16 licensed according to subdivision (a) of Section 1204 of the Health
17 and Safety Code for which all of the following are applicable:

18 (A) Each physician who is a member of the group provides
19 substantially the full range of services that the physician routinely
20 provides, including medical care, consultation, diagnosis, or
21 treatment, through the joint use of shared office space, facilities,
22 equipment, and personnel.

23 (B) Substantially all of the services of the physicians who are
24 members of the group are provided through the group and are
25 billed in the name of the group and amounts so received are treated
26 as receipts of the group, and except that in the case of
27 multispecialty clinics, as defined in subdivision (l) of Section 1206
28 of the Health and Safety Code, physician services are billed in the
29 name of the multispecialty clinic and amounts so received are
30 treated as receipts of the multispecialty clinic.

31 (C) The overhead expenses of, and the income from, the practice
32 are distributed in accordance with methods previously determined
33 by members of the group.

34 (7) Outpatient surgery includes both of the following:

35 (A) Any procedure performed on an outpatient basis in the
36 operating rooms, ambulatory surgery rooms, endoscopy units,
37 cardiac catheterization laboratories, or other sections of a
38 freestanding ambulatory ~~surgery clinic~~ *surgical center*, whether
39 or not licensed under paragraph (1) of subdivision (b) of Section
40 1204 of the Health and Safety Code.

1 (B) The ambulatory surgery itself.

2 (c) (1) It is unlawful for a licensee to enter into an arrangement
3 or scheme, such as a cross-referral arrangement, that the licensee
4 knows, or should know, has a principal purpose of ensuring
5 referrals by the licensee to a particular entity that, if the licensee
6 directly made referrals to that entity, would be in violation of this
7 section.

8 (2) It shall be unlawful for a physician to offer, deliver, receive,
9 or accept any rebate, refund, commission, preference, patronage
10 dividend, discount, or other consideration, whether in the form of
11 money or otherwise, as compensation or inducement for a referred
12 evaluation or consultation.

13 (d) No claim for payment shall be presented by an entity to any
14 individual, third-party ~~payer~~ *payer*, or other entity for any goods
15 or services furnished pursuant to a referral prohibited under this
16 section.

17 (e) A physician who refers to or seeks consultation from an
18 organization in which the physician has a financial interest shall
19 disclose this interest to the patient or if the patient is a minor, to
20 the patient's parents or legal guardian in writing at the time of the
21 referral.

22 (f) No insurer, self-insurer, or other ~~payer~~ *payer* shall pay a
23 charge or lien for any goods or services resulting from a referral
24 in violation of this section.

25 (g) A violation of subdivision (a) shall be a misdemeanor. The
26 appropriate licensing board shall review the facts and circumstances
27 of any conviction pursuant to subdivision (a) and take appropriate
28 disciplinary action if the licensee has committed unprofessional
29 conduct. Violations of this section may also be subject to civil
30 penalties of up to five thousand dollars (\$5,000) for each offense,
31 which may be enforced by the Insurance Commissioner, Attorney
32 General, or a district attorney. A violation of subdivision (c), (d),
33 (e), or (f) is a public offense and is punishable upon conviction by
34 a fine not exceeding fifteen thousand dollars (\$15,000) for each
35 violation and appropriate disciplinary action, including revocation
36 of professional licensure, by the Medical Board of California or
37 other appropriate governmental agency.

O

ASSEMBLY BILL

No. 851

Introduced by Assembly Member Brownley

February 22, 2007

An act to amend Section 4074 of the Business and Professions Code, relating to pharmacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 851, as introduced, Brownley. Prescription drugs: informational insert.

Existing law, the Pharmacy Law, the knowing violation of which is a crime, provides for the licensing and regulation of the practice of pharmacy by the California Board of Pharmacy, in the Department of Consumer Affairs. Existing law requires a pharmacist to inform a patient orally or in writing of the harmful effects of a drug dispensed by prescription if the drug poses substantial risk to the person consuming the drug when taken in combination with alcohol, as specified.

This bill would require a pharmacist to include a large print informational insert with any dispensed prescription that poses substantial risk when taken in combination with alcohol or other medications, warning of the risks involved, as specified. Because this bill would impose a new requirement under the Pharmacy Law, the knowing violation of which would be a crime, it would impose a state-mandated local program.

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

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

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

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

1 SECTION 1. Section 4074 of the Business and Professions
 2 Code is amended to read:

3 4074. (a) A pharmacist shall inform a patient orally or in
 4 writing of the harmful effects of a drug dispensed by prescription
 5 if the drug poses substantial risk to the person consuming the drug
 6 when taken in combination with alcohol or if the drug may impair
 7 a person's ability to drive a motor vehicle, whichever is applicable,
 8 and provided that the drug is determined by the board pursuant to
 9 subdivision (b) to be a drug or drug type for which this warning
 10 shall be given.

11 (b) A pharmacist shall include a large print informational insert
 12 with any prescription drug dispensed that poses substantial risk
 13 to the person consuming the drug when taken in combination with
 14 alcohol or other medications, including prescription drugs and
 15 over-the-counter drugs, provided that the drug is determined by
 16 the board pursuant to subdivision (c) to be a drug or drug type for
 17 which this warning is appropriate. The insert itself shall warn the
 18 patient of the specific risk involved and may not satisfy this
 19 requirement by reference to an outside source of information, such
 20 as an Internet Web site.

21 ~~(b)~~

22 (c) The board may by regulation require additional information
 23 or labeling.

24 ~~(c)~~

25 (d) This section shall not apply to drugs furnished to patients
 26 in conjunction with treatment or emergency services provided in
 27 health facilities or, except as provided in subdivision ~~(d)~~ (e), to
 28 drugs furnished to patients pursuant to subdivision (a) of Section
 29 4056.

30 ~~(d)~~

31 (e) A health facility shall establish and implement a written
 32 policy to ensure that each patient shall receive information
 33 regarding each medication given at the time of discharge and each
 34 medication given pursuant to subdivision (a) of Section 4056. This
 35 information shall include the use and storage of each medication,

1 the precautions and relevant warnings, and the importance of
2 compliance with directions. This information shall be given by a
3 pharmacist or registered nurse, unless already provided by a
4 patient's prescriber, and the written policy shall be developed in
5 collaboration with a physician, a pharmacist, and a registered nurse.
6 The written policy shall be approved by the medical staff. Nothing
7 in this subdivision or any other provision of law shall be construed
8 to require that only a pharmacist provide this consultation.

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

ASSEMBLY BILL

No. 865

Introduced by Assembly Member Davis

February 22, 2007

An act to amend Section 11022 of the Government Code, relating to state agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 865, as introduced, Davis. State agencies: live customer service agents.

Existing law requires each state agency to establish a procedure whereby incoming telephone calls on any public line shall be answered within 10 rings during regular business hours, subject to certain exceptions.

This bill would require each state agency to answer an incoming call with a live customer service agent, subject to certain exceptions.

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 11022 of the Government Code is
2 amended to read:
3 11022. Each state agency shall establish a procedure pursuant
4 to which incoming telephone calls on any public line shall be
5 answered *by a live customer service agent* within 10 rings during
6 regular business hours as set forth in Section 11020, except ~~where~~
7 ~~when~~ emergency or illness ~~require~~ *requires* adjustments to normal
8 staffing levels. ~~This requirement shall be met in every office where~~

- 1 ~~staff is available, unless compliance would require overtime or~~
- 2 ~~compensating time off.~~

O

ASSEMBLY BILL

No. 1025

Introduced by Assembly Member Bass

February 22, 2007

An act to amend Sections 480, 485, 490, and 491 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1025, as introduced, Bass. Professions and vocations: denial of licensure.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny licensure on certain bases, including an applicant's conviction of a crime regardless of whether the conviction has been dismissed on specified grounds, an applicant's performance of any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another or to substantially injure another, or an applicant's performance of any act that would be grounds for suspension or revocation of the license. Existing law requires a board that denies an application for licensure to provide the applicant with notice of the denial, as specified. Existing law authorizes a board to suspend or revoke a license on the basis that a licensee has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued, regardless of whether the conviction has been dismissed on specified grounds, and requires the board to provide the ex-licensuree with certain information upon doing so.

This bill would provide that a person may not be denied licensure or have his or her license suspended or revoked based on a criminal

conviction that has been dismissed on specified grounds. The bill would also provide that an arrest more than one year old does not constitute grounds for denial of a license pursuant to the above provisions if no disposition is reported. This bill would require the board to provide an applicant or ex-licensee whose application has been denied or whose license has been suspended or revoked based upon a crime with a copy of the criminal history record information relied upon in making the determination, as specified.

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 480 of the Business and Professions Code
2 is amended to read:

3 480. (a) A board may deny a license regulated by this code
4 on the grounds that the applicant has *done* one of the following:

5 (1) Been convicted of a crime. A conviction within the meaning
6 of this section means a plea or verdict of guilty or a conviction
7 following a plea of nolo contendere. Any action which a board is
8 permitted to take following the establishment of a conviction may
9 be taken when the time for appeal has elapsed, or the judgment of
10 conviction has been affirmed on appeal, or when an order granting
11 probation is made suspending the imposition of sentence;
12 ~~irrespective of a subsequent order under the provisions of Section~~
13 ~~1203.4 of the Penal Code.~~

14 (2) Done any act involving dishonesty, fraud or deceit with the
15 intent to substantially benefit himself or another, or substantially
16 injure another; or

17 (3) Done any act which if done by a licentiate of the business
18 or profession in question, would be grounds for suspension or
19 revocation of license.

20 The board may deny a license pursuant to this subdivision only
21 if the crime or act is substantially related to the qualifications,
22 functions or duties of the business or profession for which
23 application is made.

24 (b) Notwithstanding any other provision of this code, no person
25 shall be denied a license solely on the basis that he *or she* has been
26 convicted of a felony if he *or she* has obtained a certificate of
27 rehabilitation under Section 4852.01 and following of the Penal

1 Code or that he *or she* has been convicted of a misdemeanor if he
2 *or she* has met all applicable requirements of the criteria of
3 rehabilitation developed by the board to evaluate the rehabilitation
4 of a person when considering the denial of a license under
5 subdivision (a) of Section 482. *In addition, no person shall be*
6 *denied a license based on any criminal conviction that has been*
7 *dismissed pursuant to Section 1203.4 or 1203.4a of the Penal*
8 *Code.*

9 (c) A board may deny a license regulated by this code on the
10 ground that the applicant knowingly made a false statement of fact
11 required to be revealed in the application for such license.

12 (d) *For purposes of this section, the term "act" does not include*
13 *arrests more than one year old if no disposition is reported.*

14 SEC. 2. Section 485 of the Business and Professions Code is
15 amended to read:

16 485. Upon denial of an application for a license under this
17 chapter or Section 496, the board shall do either of the following:

18 (a) File and serve a statement of issues in accordance with
19 Chapter 5 (commencing with Section 11500) of Part 1 of Division
20 3 of Title 2 of the Government Code.

21 (b) Notify the applicant that the application is denied, stating
22 (1) the reason for the denial, and (2) that the applicant has the
23 right to a hearing under Chapter 5 (commencing with Section
24 11500) of Part 1 of Division 3 of Title 2 of the Government Code
25 if written request for hearing is made within 60 days after service
26 of the notice of denial. Unless written request for hearing is made
27 within the 60-day period, the applicant's right to a hearing is
28 deemed waived.

29 Service of the notice of denial may be made in the manner
30 authorized for service of summons in civil actions, or by registered
31 mail addressed to the applicant at the latest address filed by the
32 applicant in writing with the board in his or her application or
33 otherwise. Service by mail is complete on the date of mailing.

34 *If the denial of a license is due at least in part to the individual's*
35 *state or federal criminal history record, the board shall include*
36 *with the notice of denial a copy of the criminal history record*
37 *relied upon in making the denial determination. The state or federal*
38 *criminal history record shall not be modified or altered from its*
39 *form or content as provided by the Department of Justice, and*
40 *shall be sent to the address specified by the individual in his or*

1 *her application. The criminal history record shall be provided in*
2 *such a manner as to protect the confidentiality and privacy of the*
3 *individual's record, and the criminal history information shall not*
4 *be made available by the board to any employer.*

5 SEC. 3. Section 490 of the Business and Professions Code is
6 amended to read:

7 490. A board may suspend or revoke a license on the ground
8 that the licensee has been convicted of a crime, if the crime is
9 substantially related to the qualifications, functions, or duties of
10 the business or profession for which the license was issued. A
11 conviction within the meaning of this section means a plea or
12 verdict of guilty or a conviction following a plea of nolo
13 contendere. Any action which a board is permitted to take
14 following the establishment of a conviction may be taken when
15 the time for appeal has elapsed, or the judgment of conviction has
16 been affirmed on appeal, or when an order granting probation is
17 made suspending the imposition of sentence, ~~irrespective of a~~
18 ~~subsequent order under the provisions of Section 1203.4 of the~~
19 ~~Penal Code. No license shall be suspended or revoked based on~~
20 *any criminal conviction that has been dismissed pursuant to Section*
21 *1203.4 or 1203.4a of the Penal Code.*

22 SEC. 4. Section 491 of the Business and Professions Code is
23 amended to read:

24 491. Upon suspension or revocation of a license by a board on
25 one or more of the grounds specified in Section 490, the board
26 shall *do all of the following*:

27 (a) Send a copy of the provisions of Section 11522 of the
28 Government Code to the ex-licensee.

29 (b) Send a copy of the criteria relating to rehabilitation
30 formulated under Section 482 to the ex-licensee.

31 (c) *Send a copy of the criminal history record relied upon in*
32 *making the determination to suspend or revoke the license to the*
33 *ex-licensee. The state or federal criminal history record*
34 *information shall not be modified or altered from its form or*
35 *content as provided by the Department of Justice, and shall be*
36 *provided to the board's address of record of the ex-licensee. The*
37 *criminal history record shall be provided in such a manner as to*
38 *protect the confidentiality and privacy of the individual's record,*

- 1 *and the criminal history information shall not be made available*
- 2 *by the board to any employer.*

O

ASSEMBLY BILL

No. 1276

Introduced by Assembly Member Karnette

February 23, 2007

An act to amend Section 4076 of, and to add Section 4079 to, the Business and Professions Code, relating to pharmacies.

LEGISLATIVE COUNSEL'S DIGEST

AB 1276, as introduced, Karnette. Pharmacies: prescription containers: labels.

Existing law, the Pharmacy Law, makes the California State Board of Pharmacy responsible for the regulation of the practice of pharmacy. Existing law generally makes it a misdemeanor to knowingly violate the Pharmacy Law.

The Pharmacy Law prohibits a pharmacist from dispensing a prescription except in a container that meets the requirements of state and federal law and is correctly labeled with, among other things, the condition for which the drug was prescribed if requested by the patient and if the condition is indicated on the prescription.

This bill would eliminate the labeling requirement pertaining to the condition for which the drug was prescribed, and would instead require the container to be labeled with the intended purpose, as defined, of the drug if indicated on the prescription. The bill would, except for veterinarians, require a person who is authorized to write or issue a prescription to ask the patient or his or her authorized representative whether to indicate the intended purpose of the prescription on the prescription's label.

Because the bill would specify additional requirements under the Pharmacy Law, the violation of which would be a crime, it would impose a state-mandated local program.

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

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

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

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

1 SECTION 1. Section 4076 of the Business and Professions
2 Code is amended to read:

3 4076. (a) A pharmacist shall not dispense any prescription
4 except in a container that meets the requirements of state and
5 federal law and is correctly labeled with all of the following:

6 (1) Except where the prescriber or the certified nurse-midwife
7 who functions pursuant to a standardized procedure or protocol
8 described in Section 2746.51, the nurse practitioner who functions
9 pursuant to a standardized procedure described in Section 2836.1,
10 or protocol, the physician assistant who functions pursuant to
11 Section 3502.1, the naturopathic doctor who functions pursuant
12 to a standardized procedure or protocol described in Section
13 3640.5, or the pharmacist who functions pursuant to a policy,
14 procedure, or protocol pursuant to either ~~subparagraph (D) of~~
15 ~~paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph~~
16 ~~(5) of, subdivision (a) of Section 4052 paragraph (4) of subdivision~~
17 ~~(a) of Section 4052.1 or paragraph (4) of subdivision (a) of Section~~
18 4052.2 orders otherwise, either the manufacturer's trade name of
19 the drug or the generic name and the name of the manufacturer.
20 Commonly used abbreviations may be used. Preparations
21 containing two or more active ingredients may be identified by
22 the manufacturer's trade name or the commonly used name or the
23 principal active ingredients.

24 (2) The directions for the use of the drug.

25 (3) The name of the patient or patients.

26 (4) The name of the prescriber or, if applicable, the name of the
27 certified nurse-midwife who functions pursuant to a standardized

1 procedure or protocol described in Section 2746.51, the nurse
2 practitioner who functions pursuant to a standardized procedure
3 described in Section 2836.1, or protocol, the physician assistant
4 who functions pursuant to Section 3502.1, the naturopathic doctor
5 who functions pursuant to a standardized procedure or protocol
6 described in Section 3640.5, or the pharmacist who functions
7 pursuant to a policy, procedure, or protocol pursuant to either
8 ~~subparagraph (D) of paragraph (4) of, or clause (iv) of~~
9 ~~subparagraph (A) of paragraph (5) of, subdivision (a) of Section~~
10 ~~4052 paragraph (4) of subdivision (a) of Section 4052.1 or~~
11 ~~paragraph (4) of subdivision (a) of Section 4052.2.~~

12 (5) The date of issue.

13 (6) The name and address of the pharmacy, and prescription
14 number or other means of identifying the prescription.

15 (7) The strength of the drug or drugs dispensed.

16 (8) The quantity of the drug or drugs dispensed.

17 (9) The expiration date of the effectiveness of the drug
18 dispensed.

19 (10) ~~The condition for which~~ *intended purpose of the drug was*
20 ~~prescribed if requested by the patient and the condition is or drugs,~~
21 *if indicated on the prescription. As used in this section, "purpose"*
22 *means a concise description of the symptom or symptoms that the*
23 *drug is, or the drugs are, intended to treat.*

24 (11) (A) Commencing January 1, 2006, the physical description
25 of the dispensed medication, including its color, shape, and any
26 identification code that appears on the tablets or capsules, except
27 as follows:

28 (i) Prescriptions dispensed by a veterinarian.

29 (ii) An exemption from the requirements of this paragraph shall
30 be granted to a new drug for the first 120 days that the drug is on
31 the market and for the 90 days during which the national reference
32 file has no description on file.

33 (iii) Dispensed medications for which no physical description
34 exists in any commercially available database.

35 (B) This paragraph applies to outpatient pharmacies only.

36 (C) The information required by this paragraph may be printed
37 on an auxiliary label that is affixed to the prescription container.

38 (D) This paragraph shall not become operative if the board,
39 prior to January 1, 2006, adopts regulations that mandate the same
40 labeling requirements set forth in this paragraph.

1 (b) If a pharmacist dispenses a prescribed drug by means of a
2 unit dose medication system, as defined by administrative
3 regulation, for a patient in a skilled nursing, intermediate care, or
4 other health care facility, the requirements of this section will be
5 satisfied if the unit dose medication system contains the
6 aforementioned information or the information is otherwise readily
7 available at the time of drug administration.

8 (c) If a pharmacist dispenses a dangerous drug or device in a
9 facility licensed pursuant to Section 1250 of the Health and Safety
10 Code, it is not necessary to include on individual unit dose
11 containers for a specific patient, the name of the certified
12 nurse-midwife who functions pursuant to a standardized procedure
13 or protocol described in Section 2746.51, the nurse practitioner
14 who functions pursuant to a standardized procedure described in
15 Section 2836.1, or protocol, the physician assistant who functions
16 pursuant to Section 3502.1, the naturopathic doctor who functions
17 pursuant to a standardized procedure or protocol described in
18 Section 3640.5, or the pharmacist who functions pursuant to a
19 policy, procedure, or protocol pursuant to either ~~subparagraph (D)~~
20 ~~of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph~~
21 ~~(5) of, subdivision (a) of Section 4052~~ *paragraph (4) of subdivision*
22 *(a) of Section 4052.1 or paragraph (4) of subdivision (a) of Section*
23 *4052.2.*

24 (d) If a pharmacist dispenses a prescription drug for use in a
25 facility licensed pursuant to ~~Section 1250~~ *Chapter 2 (commencing*
26 *with Section 1250) of Division 2* of the Health and Safety Code,
27 it is not necessary to include the information required in paragraph
28 (11) of subdivision (a) when the prescription drug is administered
29 to a patient by a person licensed under the Medical Practice Act
30 (Chapter 5 (commencing with Section 2000)), the Nursing Practice
31 Act (Chapter 6 (commencing with Section 2700)), or the
32 Vocational Nursing Practice Act (Chapter 6.5 (commencing with
33 Section 2840)), who is acting within his or her scope of practice.

34 SEC. 2. Section 4079 is added to the Business and Professions
35 Code, to read:

36 4079. A person described in paragraph (2) of subdivision (a)
37 of Section 4040 shall ask the patient, or the patient's authorized
38 representative if the patient is either incapacitated or a minor who
39 cannot provide informed consent, whether to indicate the intended

1 purpose of the prescription on the prescription's label. This section
2 does not apply to prescriptions dispensed by veterinarians.

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

ASSEMBLY BILL

No. 1399

Introduced by Assembly Member Richardson

February 23, 2007

An act to add Section 4076.5 to the Business and Professions Code, relating to pharmacies.

LEGISLATIVE COUNSEL'S DIGEST

AB 1399, as introduced, Richardson. Pharmacies: prescription labels.

The existing Pharmacy Law provides for the licensing and regulation of the practice of pharmacy by the California State Board of Pharmacy. Existing law generally makes it a crime to knowingly violate the Pharmacy Law. The Pharmacy Law prohibits a pharmacist from dispensing a prescription except in a container that meets the requirements of state and federal law and is correctly labeled with specified information, including directions for use of the drug.

This bill would also require a prescription drug label, upon request of a blind or visually impaired customer, to be readable by an assistive technology device for the blind or visually impaired. Because this bill would impose a new requirement under the Pharmacy Law, the knowing violation of which would be a crime, it would impose a state-mandated local program.

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

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

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

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

1 SECTION 1. Section 4076.5 is added to the Business and
2 Professions Code, to read:

3 4076.5. Upon the request of a customer who is blind or visually
4 impaired, a pharmacist shall provide a prescription drug label that
5 is readable by an assistive technology device for the blind or
6 visually impaired.

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

O

ASSEMBLY BILL

No. 1587

Introduced by Assembly Member De La Torre

February 23, 2007

An act to amend Section 56.05 of the Civil Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

AB 1587, as introduced, De La Torre. Personal information: pharmacy.

The Confidentiality of Medical Information Act prohibits a provider of health care, a health care service plan, contractor, or corporation and its subsidiaries and affiliates from intentionally sharing, selling, using for marketing, or otherwise using any medical information, as defined, for any purpose not necessary to provide health care services to a patient, unless a specified exception applies. That law excludes from the definition of marketing communications that are for a specified descriptive purpose, that are tailored to the circumstances of a particular individual, or for which the communicator does not receive remuneration from a 3rd party, as specified.

This bill would additionally exclude from the definition of marketing a written communication or message provided to a pharmacy patient by a pharmacist or pharmacy personnel, as specified.

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 56.05 of the Civil Code is amended to
2 read:

3 56.05. For purposes of this part:

4 (a) "Authorization" means permission granted in accordance
5 with Section 56.11 or 56.21 for the disclosure of medical
6 information.

7 (b) "Authorized recipient" means any person who is authorized
8 to receive medical information pursuant to Section 56.10 or 56.20.

9 (c) "Contractor" means any person or entity that is a medical
10 group, independent practice association, pharmaceutical benefits
11 manager, or a medical service organization and is not a health care
12 service plan or provider of health care. "Contractor" does not
13 include insurance institutions as defined in subdivision (k) of
14 Section 791.02 of the Insurance Code or pharmaceutical benefits
15 managers licensed pursuant to the Knox-Keene Health Care Service
16 Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340)
17 of Division 2 of the Health and Safety Code).

18 (d) "Health care service plan" means any entity regulated
19 pursuant to the Knox-Keene Health Care Service Plan Act of 1975
20 (Chapter 2.2 (commencing with Section 1340) of Division 2 of
21 the Health and Safety Code).

22 (e) "Licensed health care professional" means any person
23 licensed or certified pursuant to Division 2 (commencing with
24 Section 500) of the Business and Professions Code, the Osteopathic
25 Initiative Act or the Chiropractic Initiative Act, or Division 2.5
26 (commencing with Section 1797) of the Health and Safety Code.

27 (f) "Marketing" means to make a communication about a
28 product or service that encourages recipients of the communication
29 to purchase or use the product or service.

30 "Marketing" does not include any of the following:

31 (1) Communications made orally or in writing for which the
32 communicator does not receive direct or indirect remuneration,
33 including, but not limited to, gifts, fees, payments, subsidies, or
34 other economic benefits, from a third party for making the
35 communication.

36 (2) Communications made to current enrollees solely for the
37 purpose of describing a provider's participation in an existing
38 health care provider network or health plan network of a

1 Knox-Keene licensed health plan to which the enrollees already
2 subscribe; communications made to current enrollees solely for
3 the purpose of describing if, and the extent to which, a product or
4 service, or payment for a product or service, is provided by a
5 provider, contractor, or plan or included in a plan of benefits of a
6 Knox-Keene licensed health plan to which the enrollees already
7 subscribe; or communications made to plan enrollees describing
8 the availability of more cost-effective pharmaceuticals.

9 (3) Communications that are tailored to the circumstances of a
10 particular individual to educate or advise the individual about
11 treatment options, and otherwise maintain the individual's
12 adherence to a prescribed course of medical treatment, as provided
13 in Section 1399.901 of the Health and Safety Code, for a chronic
14 and seriously debilitating or life-threatening condition as defined
15 in subdivisions (d) and (e) of Section 1367.21 of the Health and
16 Safety Code, if the health care provider, contractor, or health plan
17 receives direct or indirect remuneration, including, but not limited
18 to, gifts, fees, payments, subsidies, or other economic benefits,
19 from a third party for making the communication, if all of the
20 following apply:

21 (A) The individual receiving the communication is notified in
22 the communication in typeface no smaller than 14-point type of
23 the fact that the provider, contractor, or health plan has been
24 remunerated and the source of the remuneration.

25 (B) The individual is provided the opportunity to opt out of
26 receiving future remunerated communications.

27 (C) The communication contains instructions in typeface no
28 smaller than 14-point type describing how the individual can opt
29 out of receiving further communications by calling a toll-free
30 number of the health care provider, contractor, or health plan
31 making the remunerated communications. No further
32 communication may be made to an individual who has opted out
33 after 30 calendar days from the date the individual makes the opt
34 out request.

35 (4) *A written communication or message provided to a pharmacy*
36 *patient during a face-to-face interaction with a pharmacist or*
37 *pharmacy personnel, in conjunction with dispensing a prescription*
38 *drug, if all of the following apply:*

1 (A) *The communication does not involve the sale or transfer of*
2 *individually identifiable patient information by the pharmacy to*
3 *any other entity.*

4 (B) *The communication, either in whole or in part, assists the*
5 *pharmacist or pharmacy personnel in meeting the goals of Section*
6 *601 of Public Law 104-180 with respect to the transmittal of useful*
7 *information regarding a prescription drug dispensed to the patient.*

8 (C) *The content of the communication provides information*
9 *regarding any of the following:*

10 (i) *The dispensed drug or a disease or health condition for which*
11 *the dispensed drug is indicated.*

12 (ii) *Another treatment or therapy for a disease or health*
13 *condition for which the dispensed drug is indicated if that treatment*
14 *or therapy has demonstrable benefits, including being less*
15 *expensive, being more effective, having fewer or less serious side*
16 *effects, or offering more convenient dosing than the dispensed*
17 *drug.*

18 (iii) *A drug dispensed to the patient during the preceding three*
19 *years or a disease or health condition for which that drug is*
20 *indicated.*

21 (iv) *General information about a health condition for which the*
22 *patient's disease or health condition puts the patient at risk and*
23 *that, if left untreated, may result in worsening of the health,*
24 *symptoms, or daily functioning of the patient.*

25 (v) *General information about a health condition for which the*
26 *patient may be at risk given the age or gender of the patient and*
27 *that, if left untreated, may result in worsening of the health,*
28 *symptoms, or daily functioning of the patient.*

29 (vi) *The information described in clauses (iii) to (v), inclusive,*
30 *shall not include any mention, by the proprietary name, brand*
31 *name, or generic name, of a specific drug or other product,*
32 *treatment, therapy, or service, other than the dispensed drug or a*
33 *drug dispensed to the patient during the preceding three years.*

34 (D) *The pharmacist is available upon request of the patient to*
35 *answer questions regarding the communication and the*
36 *communication notifies the patient that he or she should consult*
37 *a health care provider.*

38 (E) *If the communication is paid for, in whole or in part, by a*
39 *manufacturer, distributor, or provider of a health care product or*
40 *service, other than the pharmacy or a business associate of the*

1 pharmacy, the communication shall comply with all of the
2 following:

3 (i) The communication shall, in a clear written statement placed
4 in a clear and conspicuous location, disclose the source of the
5 sponsorship in a typeface no smaller than 14-point type.

6 (ii) If the communication is related to information referenced
7 in clause (i) or (ii) of subparagraph (C) and mentions a
8 prescription drug or other product, treatment, therapy, or service,
9 other than the dispensed prescription drug, by its proprietary
10 name, brand name, or generic name, the communication shall also
11 contain the words "paid advertisement" in a typeface no smaller
12 than 14-point type at the top of each sponsored message.

13 (iii) If any part of the sponsored message is printed on a page
14 that is not contiguous with the page that bears the statement
15 required by clause (ii), the part of the message on the
16 noncontiguous page shall also contain the statement described in
17 clause (ii).

18 (F) The communication contains instructions in a typeface no
19 smaller than 14-point type describing how the patient can opt out
20 of the portion of the communication that is paid for by a
21 manufacturer, distributor, or provider of a health care product or
22 service by calling a toll-free number. No further sponsored message
23 may be made to an individual who has opted out after 30 calendar
24 days from the date the individual makes the opt out request.

25 (g) "Medical information" means any individually identifiable
26 information, in electronic or physical form, in possession of or
27 derived from a provider of health care, health care service plan,
28 pharmaceutical company, or contractor regarding a patient's
29 medical history, mental or physical condition, or treatment.
30 "Individually identifiable" means that the medical information
31 includes or contains any element of personal identifying
32 information sufficient to allow identification of the individual,
33 such as the patient's name, address, electronic mail address,
34 telephone number, or social security number, or other information
35 that, alone or in combination with other publicly available
36 information, reveals the individual's identity.

37 (h) "Patient" means any natural person, whether or not still
38 living, who received health care services from a provider of health
39 care and to whom medical information pertains.

1 (i) “Pharmaceutical company” means any company or business,
2 or an agent or representative thereof, that manufactures, sells, or
3 distributes pharmaceuticals, medications, or prescription drugs.
4 “Pharmaceutical company” does not include a pharmaceutical
5 benefits manager, as included in subdivision (c), or a provider of
6 health care.

7 (j) “Provider of health care” means any person licensed or
8 certified pursuant to Division 2 (commencing with Section 500)
9 of the Business and Professions Code; any person licensed pursuant
10 to the Osteopathic Initiative Act or the Chiropractic Initiative Act;
11 any person certified pursuant to Division 2.5 (commencing with
12 Section 1797) of the Health and Safety Code; any clinic, health
13 dispensary, or health facility licensed pursuant to Division 2
14 (commencing with Section 1200) of the Health and Safety Code.
15 “Provider of health care” does not include insurance institutions
16 as defined in subdivision (k) of Section 791.02 of the Insurance
17 Code.

Introduced by Senator CorbettFebruary 21, 2007

An act relating to pharmacy.

LEGISLATIVE COUNSEL'S DIGEST

SB 472, as introduced, Corbett. Prescription drugs: labeling requirements.

Existing law, the Pharmacy Law, provides for the licensing and regulation of the practice of pharmacy by the California State Board of Pharmacy in the Department of Consumer Affairs. Existing law prohibits a pharmacist from dispensing a prescription except in a container that meets certain labeling requirements.

This bill would declare the intent of the Legislature to adopt a standard format for the labeling of prescription drug containers dispensed in the state, that would include regulations for the font size of printed words on the label and the placement of information of the prescription and would provide that translated prescription drug labels should be made available to the patient if the patient's primary language is not English.

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 Legislature hereby finds and declares all of
- 2 the following:
- 3 (a) Health care costs and spending in California are rising
- 4 dramatically and are expected to continue to increase.

1 (b) In California, prescription drug spending totaled over \$188
2 billion in 2004, a \$14 billion dollar per year spending increase
3 since 1984.

4 (c) Prescription drug cost continues to be among the most
5 significant cost factors in California's overall spending on health
6 care.

7 (d) According to the Institution of Medicine of the National
8 Academies, medication errors are among the most common medical
9 errors, harming at least 1.5 million people every year.

10 (e) Up to one-half of all medications are taken incorrectly or
11 mixed with other medications that cause dangerous reactions that
12 can lead to injury and death.

13 (f) Approximately 46 percent of American adults cannot
14 understand the label on their prescription medications.

15 (g) Ninety percent of Medicare patients take medications for
16 chronic conditions and nearly one-half of them take five or more
17 different medications.

18 (h) It is the intention of the Legislature to adopt a standard
19 format for the labeling of prescription drug containers dispensed
20 in the state. That would include regulations for the font size of
21 printed words on the label and the placement of information of the
22 prescription and would provide that translated prescription drug
23 labels should be made available to the patient if the patient's
24 primary language is not English.

Introduced by Senator OropezaFebruary 22, 2007

An act to add Section 4410 to the Business and Professions Code, and to add Article 3 (commencing with Section 128199) to Chapter 3 of Part 3 of Division 107 of the Health and Safety Code, relating to pharmacy technicians.

LEGISLATIVE COUNSEL'S DIGEST

SB 615, as introduced, Oropeza. Pharmacy technicians: scholarship and loan repayment program.

(1) Existing law provides for the licensure and regulation of pharmacy technicians by the California State Board of Pharmacy. Existing law authorizes the imposition of a biennial license renewal fee upon pharmacy technicians.

This bill would authorize a pharmacy technician to make a \$10 contribution at the time of renewing a license, to be deposited in the California Pharmacy Technician Scholarship and Loan Repayment Program Fund.

(2) Existing law establishes in the Office of Statewide Health Planning and Development the California Pharmacist Scholarship and Loan Repayment Program to provide scholarships to pay for the educational expenses of pharmacy students and to repay qualifying educational loans of pharmacists who agree to serve in areas of the state where unmet priority needs exist, as specified. Existing law requires the office to administer the program utilizing the same general guidelines applicable to specified federal programs, with the exception that no matching funds shall be required from any entity in the practice site area.

This bill would establish the California Pharmacy Technician Scholarship and Loan Repayment Program to provide scholarships to pay for the educational expenses of pharmacy technician students and to repay qualifying educational loans of pharmacy technicians who agree to serve in areas of the state where unmet priority needs exist, as specified. The bill would require the office to administer this program in the same manner as the program for pharmacists, including that no matching funds shall be required from any entity in the practice site area.

(3) Existing law establishes the California Pharmacist Scholarship and Loan Repayment Program Fund in the State Treasury, and requires that the moneys in the fund be available for expenditure, upon appropriation by the Legislature, for purposes of implementing the program. Existing law provides that the program shall be implemented only to the extent that sufficient moneys are available in the fund.

This bill would establish the California Pharmacy Technician Scholarship and Loan Repayment Program Fund, under the same terms and conditions, for purposes of implementing the program established by the bill.

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 4410 is added to the Business and
2 Professions Code, to read:
3 4410. At the time a pharmacy technician license is renewed
4 pursuant to subdivision (r) of Section 4400, the pharmacy
5 technician may make a contribution of ten dollars (\$10), to be
6 submitted to the board, for the sole purpose of funding the
7 California Pharmacy Technician Scholarship and Loan Repayment
8 Program established pursuant to Article 3 (commencing with
9 Section 128199) of Chapter 3 of Part 3 of Division 107 of the
10 Health and Safety Code. The contribution submitted pursuant to
11 this section shall be paid into the State Treasury and credited to
12 the California Pharmacy Technician Scholarship and Loan
13 Repayment Program Fund established pursuant to Section 128199.5
14 of the Health and Safety Code.

1 SEC. 2. Article 3 (commencing with Section 128199) is added
2 to Chapter 3 of Part 3 of Division 107 of the Health and Safety
3 Code, to read:

4
5 Article 3. California Pharmacy Technician Scholarship and
6 Loan Repayment Program
7

8 128199. (a) (1) There is hereby established in the Office of
9 Statewide Health Planning and Development the California
10 Pharmacy Technician Scholarship and Loan Repayment Program.

11 (2) The program shall provide scholarships to pay for the
12 educational expenses of pharmacy technician school students and
13 to repay qualifying educational loans of pharmacy technicians who
14 agree to participate in designated medically underserved areas as
15 provided in this section.

16 (b) The Office of Statewide Health Planning and Development
17 shall administer the California Pharmacy Technician Scholarship
18 and Loan Repayment Program utilizing the same general guidelines
19 applicable to the federal National Health Service Corps Scholarship
20 Program established pursuant to Section 254 *l* of Title 42 of the
21 United States Code and the National Health Service Corps Loan
22 Repayment Program established pursuant to Section 254 *l*-1 of
23 Title 42 of the United States Code, except as follows:

24 (1) A pharmacy technician or pharmacy technician student shall
25 be eligible to participate in the program if he or she agrees to
26 provide pharmacy technician services in a practice site located in
27 areas of the state where unmet priority needs for primary care
28 family physicians exist as determined by the Health Workforce
29 Policy Commission.

30 (2) No matching funds shall be required from any entity in the
31 practice site area.

32 (c) This section shall be implemented only to the extent that
33 sufficient moneys are available in the California Pharmacy
34 Technician Scholarship and Loan Repayment Program Fund to
35 administer the program.

36 128199.5. The California Pharmacy Technician Scholarship
37 and Loan Repayment Program Fund is hereby established in the
38 State Treasury. Revenues from the contributions made pursuant
39 to Section 4410 of the Business and Professions Code, as well as
40 any other private or public funds made available for purposes of

1 the California Pharmacy Technician Scholarship and Loan
2 Repayment Program, shall be deposited into the fund. Upon
3 appropriation by the Legislature, moneys in the fund shall be
4 available for expenditure by the Office of Statewide Health
5 Planning and Development for purposes of implementing the
6 California Pharmacy Technician Scholarship and Loan Repayment
7 Program pursuant to this article. The Office of Statewide Health
8 Planning and Development shall be under no obligation to
9 administer a program under this article until sufficient moneys
10 have been accumulated in the fund and appropriated to the office
11 by the Legislature.

Introduced by Senator Ridley-ThomasFebruary 23, 2007

An act to amend Sections 4001 and 4003 of, and to repeal Section 101.1 of, the Business and Professions Code, relating to regulatory boards.

LEGISLATIVE COUNSEL'S DIGEST

SB 963, as introduced, Ridley-Thomas. Regulatory boards: termination.

Existing law creates the Department of Consumer Affairs within the State and Consumer Services Agency. Under existing law, the department consists of boards that license and regulate members of various professions and vocations. Existing law provides for the boards to become inoperative on a specified date unless that date is extended or deleted by the Legislature. Under existing law, when a board becomes inoperative, the department succeeds to and is vested with all the duties, powers, purposes, responsibilities and jurisdiction of the board and its executive officer that are not otherwise repealed or made inoperative.

This bill would delete that provision that requires the department to succeed to the duties, powers, purposes, responsibilities, and jurisdiction of an inoperative board.

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 101.1 of the Business and Professions
- 2 Code is repealed.

1 ~~101.1. (a) It is the intent of the Legislature that all existing~~
2 ~~and proposed consumer-related boards or categories of licensed~~
3 ~~professionals be subject to a review every four years to evaluate~~
4 ~~and determine whether each board has demonstrated a public need~~
5 ~~for the continued existence of that board in accordance with~~
6 ~~enumerated factors and standards as set forth in Division 1.2~~
7 ~~(commencing with Section 473).~~

8 ~~(b) (1) In the event that any board, as defined in Section 477,~~
9 ~~becomes inoperative or is repealed in accordance with the act that~~
10 ~~added this section, or by subsequent acts, the Department of~~
11 ~~Consumer Affairs shall succeed to and is vested with all the duties,~~
12 ~~powers, purposes, responsibilities and jurisdiction not otherwise~~
13 ~~repealed or made inoperative of that board and its executive officer.~~

14 ~~(2) Any provision of existing law that provides for the~~
15 ~~appointment of board members and specifies the qualifications~~
16 ~~and tenure of board members shall not be implemented and shall~~
17 ~~have no force or effect while that board is inoperative or repealed.~~
18 ~~Every reference to the inoperative or repealed board, as defined~~
19 ~~in Section 477, shall be deemed to be a reference to the department.~~

20 ~~(3) Notwithstanding Section 107, any provision of law~~
21 ~~authorizing the appointment of an executive officer by a board~~
22 ~~subject to the review described in Division 1.2 (commencing with~~
23 ~~Section 473), or prescribing his or her duties, shall not be~~
24 ~~implemented and shall have no force or effect while the applicable~~
25 ~~board is inoperative or repealed. Any reference to the executive~~
26 ~~officer of an inoperative or repealed board shall be deemed to be~~
27 ~~a reference to the director or his or her designee.~~

28 ~~(c) It is the intent of the Legislature that subsequent legislation~~
29 ~~to extend or repeal the inoperative date for any board shall be a~~
30 ~~separate bill for that purpose.~~

31 SEC. 2. Section 4001 of the Business and Professions Code is
32 amended to read:

33 4001. (a) There is in the Department of Consumer Affairs a
34 California State Board of Pharmacy in which the administration
35 and enforcement of this chapter is vested. The board consists of
36 13 members.

37 (b) The Governor shall appoint seven competent pharmacists
38 who reside in different parts of the state to serve as members of
39 the board. The Governor shall appoint four public members, and
40 the Senate Committee on Rules and the Speaker of the Assembly

1 shall each appoint a public member who shall not be a licensee of
2 the board, any other board under this division, or any board referred
3 to in Section 1000 or 3600.

4 (c) At least five of the seven pharmacist appointees to the board
5 shall be pharmacists who are actively engaged in the practice of
6 pharmacy. Additionally, the membership of the board shall include
7 at least one pharmacist representative from each of the following
8 practice settings: an acute care hospital, an independent community
9 pharmacy, a chain community pharmacy, and a long-term health
10 care or skilled nursing facility. The pharmacist appointees shall
11 also include a pharmacist who is a member of a labor union that
12 represents pharmacists. For the purposes of this subdivision, a
13 “chain community pharmacy” means a chain of 75 or more stores
14 in California under the same ownership, and an “independent
15 community pharmacy” means a pharmacy owned by a person or
16 entity who owns no more than four pharmacies in California.

17 (d) Members of the board shall be appointed for a term of four
18 years. No person shall serve as a member of the board for more
19 than two consecutive terms. Each member shall hold office until
20 the appointment and qualification of his or her successor or until
21 one year shall have elapsed since the expiration of the term for
22 which the member was appointed, whichever first occurs.
23 Vacancies occurring shall be filled by appointment for the
24 unexpired term.

25 (e) Each member of the board shall receive a per diem and
26 expenses as provided in Section 103.

27 (f) In accordance with ~~Sections 101.1 and~~ *Section 473.1*, this
28 section shall become inoperative on July 1, 2010, and, as of January
29 1, 2011, is repealed, unless a later enacted statute, that becomes
30 effective on or before January 1, 2011, deletes or extends the dates
31 on which it becomes inoperative and is repealed. The repeal of
32 this section renders the board subject to the review required by
33 Division 1.2 (commencing with Section 473).

34 SEC. 3. Section 4003 of the Business and Professions Code is
35 amended to read:

36 4003. (a) The board may appoint a person exempt from civil
37 service who shall be designated as an executive officer and who
38 shall exercise the powers and perform the duties delegated by the
39 board and vested in him or her by this chapter. The executive

1 officer may or may not be a member of the board as the board may
2 determine.

3 (b) The executive officer shall receive the compensation as
4 established by the board with the approval of the Director of
5 Finance. The executive officer shall also be entitled to travel and
6 other expenses necessary in the performance of his or her duties.

7 (c) The executive officer shall maintain and update in a timely
8 fashion records containing the names, titles, qualifications, and
9 places of business of all persons subject to this chapter.

10 (d) The executive officer shall give receipts for all money
11 received by him or her and pay it to the Department of Consumer
12 Affairs, taking its receipt therefor. Besides the duties required by
13 this chapter, the executive officer shall perform other duties
14 pertaining to the office as may be required of him or her by the
15 board.

16 (e) In accordance with ~~Sections 101.1 and~~ *Section 473.1*, this
17 section shall become inoperative on July 1, 2010, and, as of January
18 1, 2011, is repealed, unless a later enacted statute, that becomes
19 effective on or before January 1, 2011, deletes or extends the dates
20 on which it becomes inoperative and is repealed.

Introduced by Senators Simitian and KuehlFebruary 23, 2007

An act to add Chapter 6.9.2 (commencing with Section 25400.50) to Division 20 of the Health and Safety Code, relating to pharmaceuticals.

LEGISLATIVE COUNSEL'S DIGEST

SB 966, as introduced, Simitian. Pharmaceutical drug disposal.

(1) Existing law requires the Department of Toxic Substances Control to take renewal actions with respect to a hazardous substance that is an illegal controlled substance, a precursor of a controlled substance, or a material intended to be used in the manufacture of controlled substances, and the department is authorized to expend funds appropriated from the Illegal Drug Lab Cleanup Account in the General Fund for this purpose.

This bill would require every retailer of pharmaceutical drugs, as defined, on and after July 1, 2008, to have in place a system for the acceptance and collection of pharmaceutical drugs for proper disposal that includes specified elements. The bill would provide that any person who violates those provisions shall, if convicted, be guilty of a misdemeanor, and subject to specified civil and criminal penalties. Because the bill would create a new crime, the bill would 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. Chapter 6.9.2 (commencing with Section
2 25400.50) is added to Chapter 4 of Division 20 of the Health and
3 Safety Code, to read:

4
5 CHAPTER 6.9.2. PHARMACEUTICAL DRUG DISPOSAL
6

7 25400.50. The Legislature finds and declares all of the
8 following:

9 (a) The United States Geological Survey conducted a study in
10 2002 sampling 139 streams across 30 states and found that 80
11 percent had measurable concentrations of prescription and
12 nonprescription drugs, steroids, and reproductive hormones.

13 (b) Exposure, even to low levels of pharmaceuticals, has been
14 shown to have negative effects on fish and other aquatic species
15 and may have negative effects on human health.

16 (c) In order to reduce the likelihood of improper disposal of
17 pharmaceuticals, it is the purpose of this article to establish a
18 program through which the public may return and ensure the safe
19 and environmentally sound disposal of pharmaceutical drugs and
20 may do so in a way that is convenient for consumers and cost
21 effective for retailers.

22 25400.51. For the purposes of this article, the following terms
23 have the following meanings, unless the context clearly requires
24 otherwise:

25 (a) "Consumer" means an individual purchaser or owner of a
26 pharmaceutical drug. "Consumer" does not include a business,
27 corporation, limited partnership, or an entity involved in a
28 wholesale transaction between a distributor and retailer.

29 (b) "Pharmaceutical drug" means a prescription or
30 over-the-counter drug, including, but not limited to, a drug as
31 defined in Section 109925 or the Federal Food, Drug, and Cosmetic
32 Act, as amended (21 U.S.C. Sec. 321(g)(1)).

33 (c) "Retailer" means a person or entity who makes a retail sale
34 of a pharmaceutical drug to a consumer in this state.

1 (d) "Sale" includes, but is not limited to, transactions conducted
2 through sales outlets, catalogs, or the Internet, or any other similar
3 electronic means, but does not include a sale that is a wholesale
4 transaction with a distributor or retailer.

5 25400.52. (a) On and after July 1, 2008, every retailer shall
6 have in place a system for the acceptance and collection of
7 pharmaceutical drugs for proper disposal.

8 (b) A system for the acceptance and collection of pharmaceutical
9 drugs for proper disposal shall, at a minimum, include all of the
10 following elements:

11 (1) The take-back, at no cost to the consumer, of a
12 pharmaceutical drug, the type or brand of which the retailer sold
13 or previously sold.

14 (2) A notice to consumers that shall include informational
15 materials, including, but not limited to, Internet Web site links or
16 a telephone number, placed on the invoice or purchase order, or
17 packaged with the pharmaceutical drug, that provide consumers
18 access to obtain more information about the opportunities and
19 locations for no-cost pharmaceutical drug recycling.

20 (3) Information made available to consumers about
21 pharmaceutical drug return opportunities provided by the retailer
22 and encouraging consumers to utilize those opportunities. This
23 information may include, but is not limited to, one or more of the
24 following:

25 (A) Signage that is prominently displayed and easily visible to
26 the consumer.

27 (B) Written materials provided to the consumer at the time of
28 purchase or delivery, or both.

29 (C) Reference to the pharmaceutical drug take-back opportunity
30 in retailer advertising or other promotional materials, or both.

31 (D) Direct communications with the consumer at the time of
32 purchase.

33 (c) If a retailer is participating in an existing pharmaceutical
34 drug take-back system and the system otherwise complies with
35 the requirements of this article.

36 25400.53. On and after July 1, 2008, it is unlawful for a retailer
37 to sell a pharmaceutical drug to a consumer unless the retailer
38 complies with this article, and any violation of this section shall
39 be a misdemeanor.

1 25400.54. Notwithstanding any other provision of law, any
2 person who violates this chapter shall, if convicted, be subject to
3 imprisonment for not more than one year in the county jail or a
4 fine of not more than one thousand dollars (\$1,000), or both the
5 imprisonment and fine.

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

Agenda Item H3

Other Legislation
Introduced: For
Information Only



California State Board of Pharmacy
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STATE AND CONSUMERS AFFAIRS AGENCY
DEPARTMENT OF CONSUMER AFFAIRS
ARNOLD SCHWARZENEGGER, GOVERNOR

To: Legislation and Regulation Committee

From: Staff

Subject: Other Legislation Introduces: For Information Only

Following are additional legislative proposals that may be of interest to the board and/or the profession but most likely will not result in a formal board position.

ASSEMBLY BILL

No. 14

Introduced by Assembly Member Laird
(Coauthors: Assembly Members Hancock, Leno, Lieber, and
Saldana)
(Coauthors: Senators Kehoe and Kuehl)

December 4, 2006

An act to amend Sections 125.6, 16721, 16721.5, 19572, 23426.5, 23428.19, 23428.28, and 23438 of the Business and Professions Code, to amend Sections 82, 83, 84, 85, and 1747.80 of the Civil Code, to amend Sections 204 and 425.15 of the Code of Civil Procedure, to amend Sections 5047.5 and 24001.5 of the Corporations Code, to amend Sections 66030, 66251, 66270, 66292, 66292.1, 66292.2, 69535, 72011, 72014, 89757, and 92150 of the Education Code, to amend Section 2110 of the Elections Code, to amend Sections 11015, 11131, 54091, 54092, 54961, and 68088 of the Government Code, to amend Sections 1317, 1317.3, and 11801 of the Health and Safety Code, to amend Section 10115.7 of the Public Contract Code, to amend Sections 5080.18 and 5080.34 of the Public Resources Code, to amend Sections 453 and 12751.3 of the Public Utilities Code, to amend Section 24343.2 of, and to repeal and amend Section 17269 of, the Revenue and Taxation Code, and to amend Sections 4666, 5348, 5806, 10000, 16522.1, and 18907 of the Welfare and Institutions Code, relating to discrimination.

LEGISLATIVE COUNSEL'S DIGEST

AB 14, as introduced, Laird. Discrimination: Civil Rights Act of 2007.

(1) The Unruh Civil Rights Act entitles all persons within the jurisdiction of this state to the full and equal accommodations,

advantages, facilities, privileges, or services in all business establishments, regardless of sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

Under existing law, persons holding licenses under the provisions of the Business and Professions Code are subject to disciplinary action for refusing, or aiding or inciting another licensee to refuse, to perform the licensed services because of the prospective recipient's race, color, sex, religion, ancestry, disability, marital status, or national origin. Existing law also creates an exception to that prohibition for healing arts practitioners if the licensed activity sought would pose a direct threat to the health or safety of others.

This bill would enact the Civil Rights Act of 2007, and would instead subject those licensees to disciplinary action if the above-described discrimination is based upon the prospective recipient's sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation. This bill would also provide, however, that nothing in these provisions would require any healing arts practitioner to perform a licensed activity for which he or she is not qualified.

(2) Existing law provides that no person within the jurisdiction of this state shall be excluded or required to be excluded from a business transaction on the basis of a policy expressed in any document or writing and imposed by a 3rd party if that policy requires discrimination against that person on the basis of the person's sex, race, color, religion, ancestry, or national origin, or on the basis that the person conducts or has conducted business in a particular location.

This bill would instead prohibit that discrimination if based upon sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation, or on the basis that the person conducts or has conducted business in a particular location.

(3) Existing law provides that it is an unlawful trust and an unlawful restraint of trade for any person to grant or accept any letter of credit, or other document that evidences the transfer of funds or credit, or enter into any contract for the exchange of goods or services, if the letter of credit, contract, or other document contains any provision that requires any person to discriminate against, or to certify that he, she, or it has not dealt with, any other person on the basis of sex, race, color, religion, ancestry, or national origin, or on the basis of a person's lawful business association.

This bill would instead prohibit that discrimination if based upon sex, race, color, religion, ancestry, national origin, disability, medical

condition, marital status, or sexual orientation, or on the basis of a person's lawful business association.

(4) The Horse Racing Law authorizes the California Horse Racing Board to provide by rule for the exclusion or ejection of specified persons from any horse racing inclosure. Notwithstanding that authorization, the law prohibits the board from providing by rule for the exclusion or ejection of a person on the ground of race, color, creed, national origin or ancestry, or sex.

This bill would instead prohibit the board from excluding or ejecting a person on the ground of sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(5) Existing law prohibits tennis, handball, racquetball, and beach and athletic clubs from discriminating against any person on account of specified characteristics.

This bill would conform those provisions to the Unruh Civil Rights Act, and instead prohibit those clubs from discriminating on account of sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(6) Existing law requires every alcoholic beverage club licensee that restricts membership or the use of its services or facilities on the basis of age, sex, race, religion, color, ancestry, or national origin to incorporate a printed statement on its receipts that the expenditures covered by those receipts are nondeductible for tax purposes.

This bill would instead impose that requirement upon every alcoholic beverage club licensee that restricts membership or the use of its services or facilities on the basis of ancestry, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(7) The California Fair Dealership Law prohibits various acts of discrimination based on race, color, religion, national ancestry, or sex, with regard to the granting of dealerships, as defined. —

This bill would conform those provisions to the Unruh Civil Rights Act, and instead prohibit that discrimination based upon sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(8) A provision of the Song-Beverly Credit Card Act of 1971 prohibits a card issuer, as defined, from refusing to issue a credit card to a person solely because of that person's race, religious creed, color, national origin, ancestry, or sex.

This bill would conform that provision to the Unruh Civil Rights Act, and instead prohibit that discrimination if based upon sex, race, color,

religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(9) Existing law specifies that no eligible person shall be exempt from service as a trial juror by reason of occupation, race, color, religion, sex, national origin, economic status, or sexual orientation, or for any other reason.

This bill would instead specify that no eligible person shall be exempt from service as a trial juror by reason of occupation, economic status, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability, or for any other reason.

(10) Existing law provides that no cause of action may be maintained against a person serving without compensation as a director or officer of a nonprofit corporation incorporated pursuant to specified provisions of the nonprofit corporation law on account of any negligent act or omission by that person within the scope of that person's duties, except by court order or if the corporation unlawfully restricts membership, services, or benefits conferred on the basis of race, religious creed, color, national origin, ancestry, sex, marital status, disability, political affiliation, or age.

This bill would instead except from that immunity a director or officer of a nonprofit corporation that unlawfully restricts membership, services, or benefits on the basis of ancestry, marital status, political affiliation, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(11) Existing law provides that it is the policy of the state to afford all persons equal rights and opportunities in the postsecondary institutions of the state, regardless of specified factors. Existing law prohibits those institutions from discriminating on the basis of those factors, and requires the governing board of each community college district, the Chancellor of the California State University, the president of each California State University campus, the President of the University of California, and the chancellor of each University of California campus to ensure that campus programs and activities are free from discrimination based upon those factors.

This bill would recast those factors in terms of, among others, sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(12) Existing law requires Cal Grant Program awards to be awarded without regard to race, religion, creed, sex, or age.

This bill would instead require Cal Grant Program awards to be awarded without regard to age, sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(13) Existing law prohibits the funds of a community college district, California State University, or University of California to be used for membership with, or for any participation involving a financial payment or contribution to, any private organization which membership practices are discriminatory on the basis of race, creed, color, sex, religion, or national origin.

This bill would instead prohibit those funds from being used for membership or participation with any private organization that discriminates on the basis of sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(14) Existing law prohibits a county elections official from refusing to deputize a person to register voters because of race, creed, color, national origin, ancestry, sex, marital status, disability, religious or political affiliation, or age.

This bill would instead prohibit that refusal to deputize if based upon a person's ancestry, marital status, political affiliation, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(15) Existing law prohibits the state from using state funds for membership or any participation involving any private organization or the use of a facility which membership practices discriminate on the basis of, among others, race, creed, color, sex, religion, or national origin. Existing law also prohibits the legislative body of a local agency from using a facility which practices discriminate on the basis of those factors.

This bill would instead prohibit that state or local involvement and use of private facilities if the organization or facility discriminates on the basis of, among others, ancestry, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(16) Existing law requires a city, county, or other local agency that owns, operates, or controls a public beach, or access to that beach, to allow for its use by any person regardless of color, race, religion, ancestry, sex, national origin, or residence.

This bill would conform that provision to the Unruh Civil Rights Act, and allow for that access regardless of sex, race, color, religion, ancestry,

national origin, disability, medical condition, marital status, sexual orientation, or residence.

(17) Existing law authorizes the Judicial Council to provide by rule of court for racial, ethnic, gender bias, and sexual harassment training for judges, commissioners, and referees.

This bill would further authorize the Judicial Council to provide by rule of court for training for judges, commissioners, and referees on any other bias based on race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(18) Existing law prohibits the provision of emergency services and care to be based upon, or affected by, a person's race, ethnicity, religion, national origin, citizenship, age, sex, preexisting medical condition, physical or mental handicap, insurance status, economic status, or ability to pay for medical services, except as specified, and requires every hospital to adopt that policy.

This bill would instead prohibit that discrimination if based upon ethnicity, citizenship, age, preexisting medical condition, insurance status, economic status, ability to pay for medical services, sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation, except as specified, and would require every hospital to adopt that policy.

(19) Existing law authorizes each county to apply to the State Department of Health Services for funds for the purposes of alleviating problems in its county related to alcohol and drug abuse. Existing law authorizes each county to administer and coordinate all county alcohol and other drug programs funded by the state. Existing law requires every county alcohol and drug program administrator to assure compliance with applicable laws relating to discrimination against any person because of race, creed, age, religion, sex, sexual preference, or disabling conditions.

This bill would instead require every county alcohol and drug program administrator to assure compliance with applicable laws relating to discrimination against any person because of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(20) Existing law prohibits state governmental entities and contractors from discriminating in the awarding of any contract or subcontract on the basis of race, color, sex, ethnic origin, or ancestry.

This bill would instead prohibit that discrimination on the basis of ancestry, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(21) Existing law governs contracts for state park system concessions, and prohibits discrimination by a concessionaire or his or her agents or employees against any person because of the race, color, religion, sex, marital status, national origin, or ancestry of that person.

This bill would conform those provisions to the Unruh Civil Rights Act, and would instead prohibit that discrimination if based upon sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(22) Existing law prohibits a public utility from charging a person different rates or deposit amounts because of that person's race, religious creed, color, national origin, ancestry, physical handicap, medical condition, occupation, sex, marital status, or change in marital status.

This bill would instead prohibit that discrimination if based upon occupation, sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(23) The Municipal Utility District Act prohibits a municipal utility district from discriminating in the awarding and performance of district contracts on the basis of race, color, sex, national origin, marital status, sexual preference, creed, ancestry, medical condition, or retaliation.

This bill would instead prohibit that discrimination if based upon marital status, ancestry, medical condition, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, disability, or retaliation.

(24) The Personal Income Tax Law and the Bank and Corporation Tax Law prohibit tax deductions based upon payments or expenditures made at a club that restricts membership or the use of its services or facilities on the basis of age, sex, race, religion, color, ancestry, or national origin.

This bill would instead prohibit those deductions if made at a club that discriminates on the basis of ancestry, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability. The bill would also delete an identical and duplicate provision as that described above.

(25) Existing law requires the state to contract with appropriate agencies to provide regional centers in the community for persons with developmental disabilities. Existing law prohibits those regional centers from conducting any meeting, conference, or other function in any

facility that discriminates on the basis of race, religious creed, color, national origin, ancestry, sex, or disability.

This bill would further prohibit those centers from conducting any meeting, conference, or other function in any facility that discriminates on the basis of ancestry, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(26) Existing law requires any county that chooses to provide assisted outpatient treatment services to consider the cultural, linguistic, gender, age, and special needs of minorities in the target populations.

This bill would instead require those counties to consider the cultural, linguistic, and special needs based upon race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability in the target populations.

(27) Existing law requires the State Department of Mental Health to establish service standards that ensure that members of the target population are identified and that services are provided to assist those members. Existing law requires those individual personal service plans to ensure that members of the target population involved in the system of care receive age, gender, and culturally appropriate services, to the extent feasible.

This bill would instead require those service plans to ensure that members of the target population receive culturally appropriate services or appropriate services based upon race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability, to the extent feasible.

(28) Existing law specifies that for the purposes of the Welfare and Institutions Code that aid shall be administered and services provided promptly and humanely, with due regard for the preservation of family life, and without discrimination on account of race, national origin or ancestry, religion, sex, marital status, or political affiliation.

This bill would instead specify that those services be provided without discrimination on account of ancestry, marital status, political affiliation, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(29) Existing law requires the State Department of Social Services to adopt regulations to govern county transitional housing placement programs that provide supervised housing services to youth meeting specified criteria. Existing law requires the department to review the admission criteria to ensure that the criteria are sufficient to protect

participants and that they do not discriminate on the basis of race, gender, sexual orientation, or disability.

This bill would instead require that the admission criteria do not discriminate on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(30) Existing law establishes a statewide program to enable specified recipients of aid and other low-income households to receive food stamps under the federal Food Stamp Program. Existing law provides that in the determination of eligibility for food stamps, there shall be no discrimination against any household by reason of race, color, religious creed, national origin, sex, marital status, or political belief, to the extent not in conflict with federal law.

This bill would instead prohibit that discrimination if based upon marital status, political belief, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability, to the extent not in conflict with federal law.

(31) This bill would further provide that the changes made by specified provisions of the act are to be construed as illustrative, rather than restrictive.

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. This act shall be known and may be cited as “The
2 Civil Rights Act of 2007.”
3 SEC. 2. Section 125.6 of the Business and Professions Code
4 is amended to read:
5 125.6. ~~Every~~ *(a) With regard to an applicant, every* person
6 who holds a license under the provisions of this code is subject to
7 disciplinary action under the disciplinary provisions of this code
8 applicable to ~~such~~ *that* person if, because of ~~the applicant's race,~~
9 ~~color, sex, religion, ancestry, disability, marital status, or national~~
10 ~~origin~~ *any characteristic listed or defined in subdivision (b) or (e)*
11 *of Section 51 of the Civil Code*, he or she refuses to perform the
12 licensed activity or aids or incites the refusal to perform ~~such~~ *that*
13 licensed activity by another licensee, or if, because of ~~the~~
14 ~~applicant's race, color, sex, religion, ancestry, disability, marital~~
15 ~~status, or national origin~~ *any characteristic listed or defined in*
16 *subdivision (b) or (e) of Section 51 of the Civil Code*, he or she

1 makes any discrimination, or restriction in the performance of the
2 licensed activity. Nothing in this section shall be interpreted to
3 apply to discrimination by employers with regard to employees or
4 prospective employees, nor shall this section authorize action
5 against any club license issued pursuant to Article 4 (commencing
6 with Section 23425) of Chapter 3 of Division 9 because of
7 discriminatory membership policy. The presence of architectural
8 barriers to an individual with physical disabilities ~~which that~~
9 conform to applicable state or local building codes and regulations
10 shall not constitute discrimination under this section.

11 ~~Nothing~~

12 *(b) (1) Nothing in this section requires a person licensed*
13 *pursuant to Division 2 (commencing with Section 500) to permit*
14 *an individual to participate in, or benefit from, the licensed activity*
15 *of the licensee where that individual poses a direct threat to the*
16 *health or safety of others. For this purpose, the term “direct threat”*
17 *means a significant risk to the health or safety of others that cannot*
18 *be eliminated by a modification of policies, practices, or procedures*
19 *or by the provision of auxiliary aids and services.*

20 ~~“License,” as used in this section, includes “certificate,”~~
21 ~~“permit,” “authority,” and “registration” or any other indicia giving~~
22 ~~authorization to engage in a business or profession regulated by~~
23 ~~this code.~~

24 *(2) Nothing in this section requires a person licensed pursuant*
25 *to Division 2 (commencing with Section 500) to perform a licensed*
26 *activity for which he or she is not qualified to perform.*

27 ~~“Applicant,”~~

28 *(c) (1) “Applicant,” as used in this section, means a person*
29 *applying for licensed services provided by a person licensed under*
30 *this code.*

31 ~~“Disability” means any of the following with respect to an~~
32 ~~individual:~~

33 ~~(a) A physical or mental impairment that substantially limits~~
34 ~~one or more of the major life activities of the individual.~~

35 ~~(b) A record of such an impairment.~~

36 ~~(c) Being regarded as having such an impairment.~~

37 *(2) “License,” as used in this section, includes “certificate,”*
38 *“permit,” “authority,” and “registration” or any other indicia*
39 *giving authorization to engage in a business or profession*
40 *regulated by this code.*

1 SEC. 3. Section 16721 of the Business and Professions Code
2 is amended to read:

3 16721. Recognizing that the California Constitution prohibits
4 a person from being disqualified from entering or pursuing a
5 business, profession, vocation, or employment because of sex,
6 race, creed, color, or national or ethnic origin, and guarantees the
7 free exercise and enjoyment of religion without discrimination or
8 preference; and recognizing that these and other basic, fundamental
9 constitutional principles are directly affected and denigrated by
10 certain on-going practices in the business and commercial world,
11 it is necessary that provisions protecting and enhancing a person's
12 right to enter or pursue business and to freely exercise and enjoy
13 religion, consistent with law, be established.

14 (a) No person within the jurisdiction of this state shall be
15 excluded from a business transaction on the basis of a policy
16 expressed in any document or writing and imposed by a third party
17 where ~~such~~ *that* policy requires discrimination against that person
18 on the basis of ~~the person's sex, race, color, religion, ancestry or~~
19 ~~national origin~~ *any characteristic listed or defined in subdivision*
20 *(b) or (e) of Section 51 of the Civil Code* or on the basis that the
21 person conducts or has conducted business in a particular location.

22 (b) No person within the jurisdiction of this state shall require
23 another person to be excluded, or be required to exclude another
24 person, from a business transaction on the basis of a policy
25 expressed in any document or writing ~~which~~ *that* requires
26 discrimination against ~~such~~ *that* other person on the basis of ~~that~~
27 ~~person's sex, race, color, religion, ancestry or national origin~~ *any*
28 *characteristic listed or defined in subdivision (b) or (e) of Section*
29 *51 of the Civil Code* or on the basis that the person conducts or
30 has conducted business in a particular location.

31 (c) Any violation of any provision of this section is a conspiracy
32 against trade.

33 (d) Nothing in this section shall be construed to prohibit any
34 person, on this basis of his or her individual ideology or
35 preferences, from doing business or refusing to do business with
36 any other person consistent with law.

37 SEC. 4. Section 16721.5 of the Business and Professions Code
38 is amended to read:

39 16721.5. (a) It is an unlawful trust and an unlawful restraint
40 of trade for any person to do the following:

1 ~~(a)~~

2 (1) Grant or accept any letter of credit, or other document ~~which~~
3 *that* evidences the transfer of funds or credit, or enter into any
4 contract for the exchange of goods or services, where the letter of
5 credit, contract, or other document contains any provision ~~which~~
6 *that* requires any person to discriminate against or to certify that
7 he, she, or it has not dealt with any other person on the basis of
8 ~~sex, race, color, religion, ancestry, or national origin~~ *any*
9 *characteristic listed or defined in subdivision (b) or (e) of Section*
10 *51 of the Civil Code*, or on the basis of a person's lawful business
11 associations.

12 ~~(b)~~

13 (2) To refuse to grant or accept any letter of credit, or other
14 document ~~which~~ *that* evidences the transfer of funds or credit, or
15 to refuse to enter into any contract for the exchange of goods or
16 services, on the ground that it does not contain ~~such~~ a
17 discriminatory provision or certification.

18 ~~The~~

19 (b) *The* provisions of this section shall not apply to any letter
20 of credit, contract, or other document ~~which~~ *that* contains any
21 provision pertaining to a labor dispute or an unfair labor practice
22 if the other provisions of ~~such~~ *that* letter of credit, contract, or
23 other document do not otherwise violate the provisions of this
24 section.

25 ~~For the~~

26 (c) *For* purposes of this section, the prohibition against
27 discrimination on the basis of a person's business associations
28 shall be deemed not to include the requiring of association with
29 particular employment or a particular group as a prerequisite to
30 obtaining group rates or discounts on insurance, recreational
31 activities, or other similar benefits.

32 ~~For~~

33 (d) *For* purposes of this section, "person" shall include, but not
34 be limited to, individuals, firms partnerships, associations,
35 corporations, and governmental agencies.

36 SEC. 5. Section 19572 of the Business and Professions Code
37 is amended to read:

38 19572. The board may, by rule, provide for the exclusion or
39 ejection from any inclosure where horse races are authorized, or
40 from specified portions of ~~such~~ *that* inclosure, of any known

1 bookmaker, known tout, person who has been convicted of a
2 violation of any provision of this chapter or of any law prohibiting
3 bookmaking or any other illegal form of wagering on horse races,
4 or any other person whose presence in the inclosure would, in the
5 opinion of the board, be inimical to the interests of the state or of
6 legitimate horse racing, or both. No ~~such~~ rule shall provide for the
7 exclusion or ejection of any person on the ground of ~~race, color,~~
8 ~~creed, national origin or ancestry, or sex~~ *any characteristic listed*
9 *or defined in subdivision (b) or (e) of Section 51 of the Civil Code.*

10 SEC. 6. Section 23426.5 of the Business and Professions Code
11 is amended to read:

12 23426.5. (a) For purposes of this article, “club” also means
13 any tennis club that maintains not less than four regulation tennis
14 courts, together with the necessary facilities and clubhouse, has
15 members paying regular monthly dues, has been in existence for
16 not less than 45 years, and is not associated with a common interest
17 development as defined in Section 1351 of the Civil Code, a
18 community apartment project as defined in Section 11004 of this
19 code, a project consisting of condominiums as defined in Section
20 783 of the Civil Code, or a mobilehome park as defined in Section
21 18214 of the Health and Safety Code.

22 (b) It shall be unlawful for any club licensed pursuant to this
23 section to make any discrimination, distinction, or restriction
24 against any person on account of ~~the person’s color, race, religion,~~
25 ~~ancestry, national origin, sex, or age~~ *or any characteristic listed*
26 *or defined in subdivision (b) or (e) of Section 51 of the Civil Code.*

27 SEC. 7. Section 23428.19 of the Business and Professions
28 Code is amended to read:

29 23428.19. For purposes of this article, “club” also means any
30 private club organized to play handball or racquetball, which owns,
31 maintains, or operates a building containing not less than four
32 regulation-size handball or racquetball courts, which has members,
33 and the members ~~of which~~ each pay regular monthly dues. As used
34 in this section, a “regulation-size handball or racquetball court” is
35 a court meeting the standards for ~~such~~ regulation courts *as are*
36 promulgated by the United States Handball Association or an
37 equivalent organization.

38 It shall be unlawful for any club licensed pursuant to this section
39 to make any discrimination, distinction, or restriction against any
40 person on account of ~~such person’s color, race, religion, ancestry,~~

1 ~~or national origin~~ any characteristic listed or defined in subdivision
2 (b) or (e) of Section 51 of the Civil Code.

3 SEC. 8. Section 23428.28 of the Business and Professions
4 Code is amended to read:

5 23428.28. For the purposes of this article, “club” also means
6 any beach and athletic club that owns, maintains, or operates a
7 standard Amateur Athletic Union (AAU) swimming pool together
8 with the necessary facilities and clubhouse, has a minimum of 500
9 members paying regular monthly dues, and has continuously
10 operated for not less than one year.

11 No license shall be issued to any beach and athletic club
12 qualifying as a club pursuant to this section if the beach and athletic
13 club in any manner restricts membership or the use of its facilities
14 on the basis of ~~race, religion, national origin, sex, or age~~ or any
15 characteristic listed or defined in subdivision (b) or (e) of Section
16 51 of the Civil Code.

17 SEC. 9. Section 23438 of the Business and Professions Code
18 is amended to read:

19 23438. (a) Any alcoholic beverage club licensee which restricts
20 membership or the use of its services or facilities on the basis of
21 ~~age, sex, race, religion, color, ancestry, or national origin~~ or any
22 characteristic listed or defined in Section 11135 of the Government
23 Code shall, when issuing a receipt for expenses which may
24 otherwise be used by taxpayers for deduction purposes pursuant
25 to Section 162(a) of the Internal Revenue Code, for purposes of
26 the Personal Income Tax Law, or Section 24343 of the Revenue
27 and Taxation Code, for purposes of the Bank and Corporation Tax
28 Law, incorporate a printed statement on the receipt as follows:

29 “The expenditures covered by this receipt are nondeductible for
30 state income tax purposes or franchise tax purposes.”

31 (b) For purposes of this section, the following terms have the
32 following meanings:

33 (1) “Expenses” means expenses, as defined in Section 17269
34 or 24343.2 of the Revenue and Taxation Code.

35 (2) “Club” means a club holding an alcoholic beverage license
36 pursuant to the provisions of this division, except a club holding
37 an alcoholic beverage license pursuant to Section 23425.

38 SEC. 10. Section 82 of the Civil Code is amended to read:

39 82. This part shall be liberally construed and applied to promote
40 its underlying purposes and policies, which are as follows:

1 (a) The prohibition of discrimination based upon ~~race, color,~~
 2 ~~religion, national origin, ancestry, or sex~~ *any characteristic listed*
 3 *or defined in subdivision (b) or (e) of Section 51* in the granting,
 4 sale, transfer, bequest, termination, and nonrenewal of ~~dealerships;~~
 5 ~~and, dealerships.~~

6 The

7 (b) *The* requirements of this part shall not be varied by contract
 8 or agreement and any portion of a contract or agreement purporting
 9 to do so is void and unenforceable.

10 SEC. 11. Section 83 of the Civil Code is amended to read:

11 83. On or after January 1, 1981, no grantor, directly or
 12 indirectly, shall refuse to grant a dealership to any person because
 13 ~~of the race, color, religion, national origin, ancestry, or sex of such~~
 14 ~~person~~ *any characteristic listed or defined in subdivision (b) or*
 15 *(e) of Section 51.*

16 SEC. 12. Section 84 of the Civil Code is amended to read:

17 84. On or after January 1, 1981, no grantor, directly or
 18 indirectly, may terminate, cancel, or refuse to renew a dealership
 19 agreement *with a dealer* because of ~~the race, color, religion,~~
 20 ~~national origin, ancestry, or sex of the dealer~~ *any characteristic*
 21 *listed or defined in subdivision (b) or (e) of Section 51.*

22 SEC. 13. Section 85 of the Civil Code is amended to read:

23 85. On or after January 1, 1981, no grantor or dealer, directly
 24 or indirectly, shall refuse to make or to consent to an assignment,
 25 sale, transfer, or bequest of a dealership to any person, or to the
 26 intestate succession to the dealership by any person, because of
 27 ~~the race, color, religion, national origin, ancestry, or sex of such~~
 28 ~~person~~ *any characteristic listed or defined in subdivision (b) or*
 29 *(e) of Section 51.* This section shall not be construed to create any
 30 right in a dealer to assign, sell, transfer, or bequeath a dealership
 31 where the right did not exist prior to January 1, 1981.

32 SEC. 14. Section 1747.80 of the Civil Code is amended to
 33 read:

34 1747.80. (a) No card issuer shall refuse to issue a credit card
 35 to any person solely because of ~~that person's race, religious creed,~~
 36 ~~color, national origin, ancestry or sex~~ *any characteristic listed or*
 37 *defined in subdivision (b) or (e) of Section 51.*

38 (b) Any card issuer who willfully violates this section is liable
 39 for each and every ~~such~~ offense for the actual damages, and two
 40 hundred fifty dollars (\$250) in addition thereto, suffered by any

1 person denied a credit card solely for the reasons set forth in
2 subdivision (a), ~~and in~~. *In addition such, that* person may petition
3 the court to order the card issuer to issue him *or her* a credit card
4 upon ~~such~~ *the* terms, conditions, and standards as the card issuer
5 normally utilizes in granting credit to other individuals.

6 SEC. 15. Section 204 of the Code of Civil Procedure is
7 amended to read:

8 204. (a) No eligible person shall be exempt from service as a
9 trial juror by reason of occupation, ~~race, color, religion, sex,~~
10 ~~national origin,~~ economic status, or ~~sexual orientation~~ *any*
11 *characteristic listed or defined in Section 11135 of the Government*
12 *Code*, or for any other reason. No person shall be excused from
13 service as a trial juror except as specified in subdivision (b).

14 (b) An eligible person may be excused from jury service only
15 for undue hardship, upon themselves or upon the public, as defined
16 by the Judicial Council.

17 SEC. 16. Section 425.15 of the Code of Civil Procedure is
18 amended to read:

19 425.15. (a) No cause of action against a person serving without
20 compensation as a director or officer of a nonprofit corporation
21 described in this section, on account of any negligent act or
22 omission by that person within the scope of that person's duties
23 as a director acting in the capacity of a board member, or as an
24 officer acting in the capacity of, and within the scope of the duties
25 of, an officer, shall be included in a complaint or other pleading
26 unless the court enters an order allowing the pleading that includes
27 that claim to be filed after the court determines that the party
28 seeking to file the pleading has established evidence that
29 substantiates the claim. The court may allow the filing of a pleading
30 that includes that claim following the filing of a verified petition
31 therefor accompanied by the proposed pleading and supporting
32 affidavits stating the facts upon which the liability is based. The
33 court shall order service of the petition upon the party against
34 whom the action is proposed to be filed and permit that party to
35 submit opposing affidavits prior to making its determination. The
36 filing of the petition, proposed pleading, and accompanying
37 affidavits shall toll the running of any applicable statute of
38 limitations until the final determination of the matter, which ruling,
39 if favorable to the petitioning party, shall permit the proposed
40 pleading to be filed.

1 (b) Nothing in this section shall affect the right of the plaintiff
2 to discover evidence on the issue of damages.

3 (c) Nothing in this section shall be construed to affect any action
4 against a nonprofit corporation for any negligent action or omission
5 of a volunteer director or officer occurring within the scope of the
6 person's duties.

7 (d) For the purposes of this section, "compensation" means
8 remuneration whether by way of salary, fee, or other consideration
9 for services rendered. However, the payment of per diem, mileage,
10 or other reimbursement expenses to a director or officer shall not
11 constitute compensation.

12 (e) (1) This section applies only to officers and directors of
13 nonprofit corporations that are subject to Part 2 (commencing with
14 Section 5110), Part 3 (commencing with Section 7110), or Part 4
15 (commencing with Section 9110) of Division 2 of Title 1 of the
16 Corporations Code that are organized to provide charitable,
17 educational, scientific, social, or other forms of public service and
18 that are exempt from federal income taxation under Section
19 501(c)(1), except any credit union, or Section 501(c)(4), 501(c)(5),
20 501(c)(7), or 501(c)(19) of the Internal Revenue Code.

21 (2) This section does not apply to any corporation that
22 unlawfully restricts membership, services, or benefits conferred
23 on the basis of ~~race, religious creed, color, national origin, ancestry,~~
24 ~~sex, marital status, disability,~~ political affiliation, or ~~age~~ *any*
25 *characteristic listed or defined in Section 11135 of the Government*
26 *Code.*

27 SEC. 17. Section 5047.5 of the Corporations Code is amended
28 to read:

29 5047.5. (a) The Legislature finds and declares that the services
30 of directors and officers of nonprofit corporations who serve
31 without compensation are critical to the efficient conduct and
32 management of the public service and charitable affairs of the
33 people of California. The willingness of volunteers to offer their
34 services has been deterred by a perception that their personal assets
35 are at risk for these activities. The unavailability and unaffordability
36 of appropriate liability insurance makes it difficult for these
37 corporations to protect the personal assets of their volunteer
38 decisionmakers with adequate insurance. It is the public policy of
39 this state to provide incentive and protection to the individuals
40 who perform these important functions.

1 (b) Except as provided in this section, no cause of action for
2 monetary damages shall arise against any person serving without
3 compensation as a director or officer of a nonprofit corporation
4 subject to Part 2 (commencing with Section 5110), Part 3
5 (commencing with Section 7110), or Part 4 (commencing with
6 Section 9110) of this division on account of any negligent act or
7 omission occurring (1) within the scope of that person's duties as
8 a director acting as a board member, or within the scope of that
9 person's duties as an officer acting in an official capacity; (2) in
10 good faith; (3) in a manner that the person believes to be in the
11 best interest of the corporation; and (4) is in the exercise of his or
12 her policymaking judgment.

13 (c) This section shall not limit the liability of a director or officer
14 for any of the following:

15 (1) Self-dealing transactions, as described in Sections 5233 and
16 9243.

17 (2) Conflicts of interest, as described in Section 7233.

18 (3) Actions described in Sections 5237, 7236, and 9245.

19 (4) In the case of a charitable trust, an action or proceeding
20 against a trustee brought by a beneficiary of that trust.

21 (5) Any action or proceeding brought by the Attorney General.

22 (6) Intentional, wanton, or reckless acts, gross negligence, or
23 an action based on fraud, oppression, or malice.

24 (7) Any action brought under Chapter 2 (commencing with
25 Section 16700) of Part 2 of Division 7 of the Business and
26 Professions Code.

27 (d) This section only applies to nonprofit corporations organized
28 to provide religious, charitable, literary, educational, scientific,
29 social, or other forms of public service that are exempt from federal
30 income taxation under Section 501(c)(3) or 501(c)(6) of the Internal
31 Revenue Code.

32 (e) This section applies only if the nonprofit corporation
33 maintains a general liability insurance policy with an amount of
34 coverage of at least the following amounts:

35 (1) If the corporation's annual budget is less than fifty thousand
36 dollars (\$50,000), the minimum required amount is five hundred
37 thousand dollars (\$500,000).

38 (2) If the corporation's annual budget equals or exceeds fifty
39 thousand dollars (\$50,000), the minimum required amount is one
40 million dollars (\$1,000,000).

1 This section applies only if the claim against the director or
2 officer may also be made directly against the corporation and a
3 general liability insurance policy is in force both at the time of
4 injury and at the time the claim against the corporation is made,
5 so that a policy is applicable to the claim. If a general liability
6 policy is found to cover the damages caused by the director or
7 officer, no cause of action as provided in this section shall be
8 maintained against the director or officer.

9 (f) For the purposes of this section, the payment of actual
10 expenses incurred in attending meetings or otherwise in the
11 execution of the duties of a director or officer shall not constitute
12 compensation.

13 (g) Nothing in this section shall be construed to limit the liability
14 of a nonprofit corporation for any negligent act or omission of a
15 director, officer, employee, agent, or servant occurring within the
16 scope of his or her duties.

17 (h) This section does not apply to any corporation that
18 unlawfully restricts membership, services, or benefits conferred
19 on the basis of ~~race, religious creed, color, national origin, ancestry,~~
20 ~~sex, marital status, disability, political affiliation, or age~~ *any*
21 *characteristic listed or defined in Section 11135 of the Government*
22 *Code.*

23 (i) This section does not apply to any volunteer director or
24 officer who receives compensation from the corporation in any
25 other capacity, including, but not limited to, as an employee.

26 SEC. 18. Section 24001.5 of the Corporations Code is amended
27 to read:

28 24001.5. (a) The Legislature finds and declares that the
29 services of directors or officers of nonprofit medical associations,
30 as defined in Section 21200, who serve without compensation are
31 critical to the efficient conduct and management of the public
32 service and charitable affairs of the people of California. The
33 willingness of volunteers to offer their services has been deterred
34 by a perception that their personal assets are at risk for these
35 activities. The unavailability and unaffordability of appropriate
36 liability insurance makes it difficult for these associations to protect
37 the personal assets of their volunteer decisionmakers with adequate
38 insurance. It is the public policy of this state to provide incentive
39 and protection to the individuals who perform these important
40 functions.

1 (b) Except as provided in this section, no cause of action for
2 monetary damages shall arise against any person serving without
3 compensation as a director or officer of a nonprofit medical
4 association, as defined in Section 21200, on account of any
5 negligent act or omission occurring (1) within the scope of that
6 person's duties as a director acting as a board member, or within
7 the scope of that person's duties as an officer acting in an official
8 capacity; (2) in good faith; (3) in a manner that the person believes
9 to be in the best interest of the association; and (4) is in the exercise
10 of his or her policymaking judgment.

11 (c) This section shall not limit the liability of a director or officer
12 for any of the following:

13 (1) Self-dealing transactions, as described in Sections 5233 and
14 9243.

15 (2) Conflicts of interest, as described in Section 7233.

16 (3) Actions described in Sections 5237, 7236, and 9245.

17 (4) In the case of a charitable trust, an action or proceeding
18 against a trustee brought by a beneficiary of that trust.

19 (5) Any action or proceeding brought by the Attorney General.

20 (6) Intentional, wanton, or reckless acts, gross negligence, or
21 an action based on fraud, oppression, or malice.

22 (7) Any action brought under Chapter 2 (commencing with
23 Section 16700) of Part 2 of Division 7 of the Business and
24 Professions Code.

25 (d) This section only applies to nonprofit organizations
26 organized to provide charitable, educational, scientific, social, or
27 other forms of public service that are exempt from federal income
28 taxation under Section 501(c)(3) or 501(c)(6) of the Internal
29 Revenue Code.

30 (e) This section applies only if the nonprofit association
31 maintains a general liability insurance policy with an amount of
32 coverage of at least the following amounts:

33 (1) If the association's annual budget is less than fifty thousand
34 dollars (\$50,000), the minimum required amount is five hundred
35 thousand dollars (\$500,000).

36 (2) If the association's annual budget equals or exceeds fifty
37 thousand dollars (\$50,000), the minimum required amount is one
38 million dollars (\$1,000,000).

1 This section applies only if the general liability insurance policy
2 is in force both at the time of injury and at the time that the claim
3 is made, so that the policy is applicable to the claim.

4 (f) For the purposes of this section, the payment of actual
5 expenses incurred in attending meetings or otherwise in the
6 execution of the duties of a director or officer shall not constitute
7 compensation.

8 (g) Nothing in this section shall be construed to limit the liability
9 of a nonprofit association for any negligent act or omission of a
10 director, officer employee, agent, or servant occurring within the
11 scope of his or her duties.

12 (h) This section does not apply to any association that unlawfully
13 restricts membership, services, or benefits conferred on the basis
14 of ~~race, religious creed, color, national origin, ancestry, sex, marital~~
15 ~~status, disability, political affiliation, or age~~ *any characteristic*
16 *listed or defined in Section 11135 of the Government Code.*

17 (i) This section does not apply to any volunteer director or
18 officer who receives compensation from the association in any
19 other capacity, including, but not limited to, as an employee.

20 SEC. 19. Section 66030 of the Education Code is amended to
21 read:

22 66030. (a) It is the intent of the Legislature that public higher
23 education in California strive to provide educationally equitable
24 environments ~~which~~ *that* give each Californian, regardless of ~~ethnic~~
25 ~~origin, race, gender, age, disability, or economic circumstance, or~~
26 *any other characteristic listed or defined in subdivision (b) or (e)*
27 *of Section 51 of the Civil Code, a reasonable opportunity to develop*
28 *fully his or her potential.*

29 (b) It is the responsibility of the governing boards of institutions
30 of higher education to ensure and maintain multicultural learning
31 environments free from all forms of discrimination and harassment,
32 in accordance with state and federal law.

33 SEC. 20. Section 66251 of the Education Code is amended to
34 read:

35 66251. It is the policy of the State of California to afford all
36 persons, regardless of ~~their sex, ethnic group identification, race,~~
37 ~~national origin, religion, mental or physical disability, or regardless~~
38 ~~of any characteristic listed or defined in subdivision (b) or (e) of~~
39 *Section 51 of the Civil Code or any basis that is contained in the*
40 *prohibition of hate crimes set forth in subdivision (a) of Section*

1 422.6 of the Penal Code, equal rights and opportunities in the
2 postsecondary institutions of the state. The purpose of this chapter
3 is to prohibit acts that are contrary to that policy and to provide
4 remedies therefor.

5 SEC. 21. Section 66270 of the Education Code is amended to
6 read:

7 66270. No person shall be subjected to discrimination on the
8 basis of ~~sex, ethnic group identification, race, national origin,~~
9 ~~religion, color, or mental or physical disability, any characteristic~~
10 *listed or defined in subdivision (b) or (e) of Section 51 of the Civil*
11 *Code* or any basis that is contained in the prohibition of hate crimes
12 set forth in subdivision (a) of Section 422.6 of the Penal Code in
13 any program or activity conducted by any postsecondary
14 educational institution that receives, or benefits from, state financial
15 assistance or enrolls students who receive state student financial
16 aid.

17 SEC. 22. Section 66292 of the Education Code is amended to
18 read:

19 66292. (a) The governing board of a community college district
20 shall have the primary responsibility for ensuring that community
21 college district programs and activities are free from discrimination
22 based on ~~ethnic group identification, religion, age, sex, color, or~~
23 ~~physical or mental disability or any characteristic listed or defined~~
24 *in subdivision (b) or (e) of Section 51 of the Civil Code.*

25 (b) The Chancellor's office of the California Community
26 Colleges shall have responsibility for monitoring the compliance
27 of each district with any and all regulations adopted pursuant to
28 Section 11138 of the Government Code.

29 SEC. 23. Section 66292.1 of the Education Code is amended
30 to read:

31 66292.1. The Chancellor of the California State University and
32 the president of each California State University campus shall have
33 the primary responsibility for ensuring that campus programs and
34 activities are free from discrimination based on ~~ethnic group~~
35 ~~identification, religion, age, sex, color, or physical or mental~~
36 ~~disability or any characteristic listed or defined in subdivision (b)~~
37 *or (e) of Section 51 of the Civil Code.*

38 SEC. 24. Section 66292.2 of the Education Code is amended
39 to read:

1 66292.2. The President of the University of California and the
2 chancellor of each University of California campus shall have
3 primary responsibility for ensuring that campus programs and
4 activities are free from discrimination based on ~~ethnic group~~
5 ~~identification, religion, age, sex, color, or physical or mental~~
6 ~~disability or any characteristic listed or defined in subdivision (b)~~
7 ~~or (e) of Section 51 of the Civil Code.~~

8 SEC. 25. Section 69535 of the Education Code is amended to
9 read:

10 69535. (a) Cal Grant Program awards shall be based upon the
11 financial need of the applicant. The level of financial need of each
12 applicant shall be determined by the commission pursuant to
13 Article 1.5 (commencing with Section 69503).

14 (b) For the applicants so qualifying, academic criteria or criteria
15 related to past performances shall be utilized as the criteria in
16 determining eligibility for grants.

17 (c) All Cal Grant Program award recipients shall be residents
18 of California, as determined by the commission pursuant to Part
19 41 (commencing with Section 68000), and shall remain eligible
20 only if they are in attendance and making satisfactory progress
21 through the instructional programs, as determined by the
22 commission.

23 (d) Part-time students shall not be discriminated against in the
24 selection of Cal Grant Program award recipients, and awards to
25 part-time students shall be roughly proportional to the time spent
26 in the instructional program, as determined by the commission.
27 First-time Cal Grant Program award recipients who are part-time
28 students shall be eligible for a full-time renewal award.

29 (e) Cal Grant Program awards shall be awarded without regard
30 to ~~race, religion, creed, sex, or age or any characteristic listed or~~
31 ~~defined in subdivision (b) or (e) of Section 51 of the Civil Code.~~

32 (f) No applicant shall receive more than one type of Cal Grant
33 Program award concurrently. Except as provided in subdivisions
34 (b) and (c) of Section 69535.1, no applicant shall:

35 (1) Receive one or a combination of Cal Grant Program awards
36 in excess of a total of four years of full-time attendance in an
37 undergraduate program.

38 (2) Have obtained a baccalaureate degree prior to receiving a
39 Cal Grant Program award, except as provided in Section 69540.

1 (g) Cal Grant Program awards, except as provided in subdivision
2 (c) of Section 69535.1, may only be used for educational expenses
3 of a program of study leading directly to an undergraduate degree
4 or certificate, or for expenses of undergraduate coursework in a
5 program of study leading directly to a first professional degree,
6 but for which no baccalaureate degree is awarded.

7 (h) Commencing in 1999, the commission shall, for students
8 who accelerate college attendance, increase the amount of award
9 proportional to the period of additional attendance resulting from
10 attendance in classes that fulfill requirements or electives for
11 graduation during summer terms, sessions, or quarters. In the
12 aggregate, the total amount a student may receive in a four-year
13 period may not be increased as a result of accelerating his or her
14 progress to a degree by attending summer terms, sessions, or
15 quarters.

16 (i) The commission shall notify Cal Grant award recipients of
17 the availability of funding for the summer term, session, or quarter
18 through prominent notice in financial aid award letters, materials,
19 guides, electronic information, and other means that may include,
20 but not be limited to, surveys, newspaper articles, or attachments
21 to communications from the commission and any other published
22 documents.

23 (j) The commission may provide by appropriate rules and
24 regulations for reports, accounting, and statements from the award
25 winner and college or university of attendance pertaining to the
26 use or application of the award as the commission may deem
27 proper.

28 (k) The commission may establish Cal Grant Program awards
29 in one hundred dollar (\$100) increments.

30 (l) A Cal Grant Program award may be utilized only at the
31 following institutions or programs:

32 (1) Any California private or independent postsecondary
33 educational institution or program that participates in two of the
34 three federal campus-based student aid programs and whose
35 students participate in the Pell Grant program.

36 (2) Any nonprofit regionally accredited institution headquartered
37 and operating in California that certifies to the commission that
38 10 percent of the institution's operating budget, as demonstrated
39 in an audited financial statement, is expended for the purposes of
40 institutionally funded student financial aid in the form of grants

1 and that demonstrates to the commission that it has the
2 administrative capacity to administer the funds.

3 (3) Any California public postsecondary educational institution
4 or program.

5 SEC. 26. Section 72011 of the Education Code is amended to
6 read:

7 72011. Every community college district shall provide access
8 to its services, classes, and programs without regard to ~~race,~~
9 ~~religious creed, color, national origin, ancestry, handicap, or sex~~
10 *any characteristic listed or defined in subdivision (b) or (e) of*
11 *Section 51 of the Civil Code.*

12 SEC. 27. Section 72014 of the Education Code is amended to
13 read:

14 72014. No funds under the control of a community college
15 district shall ever be used for membership or for any participation
16 involving a financial payment or contribution, on behalf of the
17 district or any individual employed by or associated therewith, in
18 any private organization whose membership practices are
19 discriminatory on the basis of ~~race, creed, color, sex, religion, or~~
20 ~~national origin~~ *any characteristic listed or defined in subdivision*
21 *(b) or (e) of Section 51 of the Civil Code.* This section does not
22 apply to any public funds which have been paid to an individual
23 officer or employee of the district as salary, or to any funds which
24 are used directly or indirectly for the benefit of student
25 organizations.

26 SEC. 28. Section 89757 of the Education Code is amended to
27 read:

28 89757. None of the funds enumerated in Section 89756, nor
29 any of the funds of an auxiliary organization, shall ever be used
30 by any university or college for membership or for any participation
31 involving a financial payment or contribution, on behalf of the
32 institution, or any individual employed by or associated therewith,
33 in any private organization whose membership practices are
34 discriminatory on the basis of ~~race, creed, color, sex, religion, or~~
35 ~~national origin~~ *any characteristic listed or defined in subdivision*
36 *(b) or (e) of Section 51 of the Civil Code.* This section does not
37 apply to any public funds which have been paid to an individual
38 employee or officer as salary, or to any funds which are used
39 directly or indirectly for the benefit of student organizations.

1 SEC. 29. Section 92150 of the Education Code is amended to
2 read:

3 92150. No state funds under the control of an officer or
4 employee of the University of California shall ever be used for
5 membership or for any participation involving a financial payment
6 or contribution, on behalf of the university, or any individual
7 employed by or associated therewith, in any private organization
8 whose membership practices are discriminatory on the basis of
9 ~~race, creed, color, sex, religion, or national origin~~ *any characteristic*
10 *listed or defined in subdivision (b) or (e) of Section 51 of the Civil*
11 *Code*. This section does not apply to any public funds which have
12 been paid to an individual employee or officer of the university as
13 salary, or to any funds which are used directly or indirectly for the
14 benefit of student organizations.

15 SEC. 30. Section 2110 of the Elections Code is amended to
16 read:

17 2110. No county elections official may refuse to deputize any
18 person to register voters because of ~~race, creed, color, national~~
19 ~~origin, ancestry, sex, marital status, disability, religious or political~~
20 ~~affiliation, or age~~ *any characteristic listed or defined in Section*
21 *11135 of the Government Code*.

22 SEC. 31. Section 11015 of the Government Code is amended
23 to read:

24 11015. No state funds under the control of an officer or
25 employee of the state, or of any agency thereof, shall ever be used
26 for membership or for any participation involving a financial
27 payment or contribution, on behalf of the state agency, or any
28 individual employed by or associated therewith, in any private
29 organization whose membership practices are discriminatory on
30 the basis of ~~race, creed, color, sex, religion, or national origin~~ *any*
31 *characteristic listed or defined in Section 11135*. This section does
32 not apply to any public funds which have been paid to an individual
33 employee or officer as salary.

34 SEC. 32. Section 11131 of the Government Code is amended
35 to read:

36 11131. No state agency shall conduct any meeting, conference,
37 or other function in any facility that prohibits the admittance of
38 any person, or persons, on the basis of ~~race, religious creed, color,~~
39 ~~national origin, ancestry, or sex~~ *any characteristic listed or defined*
40 *in Section 11135*, or that is inaccessible to disabled persons, or

1 where members of the public may not be present without making
2 a payment or purchase. As used in this section, “state agency”
3 means and includes every state body, office, officer, department,
4 division, bureau, board, council, commission, or other state agency.

5 SEC. 33. Section 54091 of the Government Code is amended
6 to read:

7 54091. Any city, county, or other local agency ~~which that~~ owns,
8 operates, or controls any public beach shall allow the use of ~~such~~
9 ~~that~~ public beach by all persons regardless of ~~color, race, religion,~~
10 ~~ancestry, sex, national origin, or residence or any characteristic~~
11 ~~listed or defined in subdivision (b) or (e) of Section 51 of the Civil~~
12 ~~Code.~~ Nonresidents of the city, county, or other local agency shall
13 be permitted to use ~~such that~~ public beach upon the same terms
14 and conditions as are residents of ~~such the~~ city, county, or local
15 agency.

16 SEC. 34. Section 54092 of the Government Code is amended
17 to read:

18 54092. Any city, county, or other local agency ~~which that~~
19 allows any property owned, operated, or controlled by it to be used
20 as a means of access to any public beach shall allow free access
21 over ~~such that~~ property to all persons regardless of ~~color, race,~~
22 ~~religion, ancestry, sex, national origin or residence or any~~
23 ~~characteristic listed or defined in subdivision (b) or (e) of Section~~
24 ~~51 of the Civil Code.~~

25 SEC. 35. Section 54961 of the Government Code is amended
26 to read:

27 54961. (a) No legislative body of a local agency shall conduct
28 any meeting in any facility that prohibits the admittance of any
29 person, or persons, on the basis of ~~race, religious creed, color,~~
30 ~~national origin, ancestry, or sex any characteristic listed or defined~~
31 ~~in Section 11135,~~ or which is inaccessible to disabled persons, or
32 where members of the public may not be present without making
33 a payment or purchase. This section shall apply to every local
34 agency as defined in Section 54951.

35 (b) No notice, agenda, announcement, or report required under
36 this chapter need identify any victim or alleged victim of tortious
37 sexual conduct or child abuse unless the identity of the person has
38 been publicly disclosed.

39 SEC. 36. Section 68088 of the Government Code is amended
40 to read:

1 68088. The Judicial Council may provide by rule of court for
2 racial, ethnic, and gender bias, and sexual harassment training *and*
3 *training for any other bias based on any characteristic listed or*
4 *defined in Section 11135* for judges, commissioners, and referees.

5 SEC. 37. Section 1317 of the Health and Safety Code is
6 amended to read:

7 1317. (a) Emergency services and care shall be provided to
8 any person requesting the services or care, or for whom services
9 or care is requested, for any condition in which the person is in
10 danger of loss of life, or serious injury or illness, at any health
11 facility licensed under this chapter that maintains and operates an
12 emergency department to provide emergency services to the public
13 when the health facility has appropriate facilities and qualified
14 personnel available to provide the services or care.

15 (b) In no event shall the provision of emergency services and
16 care be based upon, or affected by, the person's ~~race~~, ethnicity,
17 ~~religion, national origin,~~ citizenship, age, ~~sex,~~ preexisting medical
18 condition, ~~physical or mental handicap,~~ insurance status, economic
19 status, ~~or~~ ability to pay for medical services, *or any other*
20 *characteristic listed or defined in subdivision (b) or (e) of Section*
21 *51 of the Civil Code*, except to the extent that a circumstance such
22 as age, sex, preexisting medical condition, or physical or mental
23 ~~handicap~~ *disability* is medically significant to the provision of
24 appropriate medical care to the patient.

25 (c) Neither the health facility, its employees, nor any physician
26 and surgeon, dentist, clinical psychologist, or podiatrist shall be
27 liable in any action arising out of a refusal to render emergency
28 services or care if the refusal is based on the determination,
29 exercising reasonable care, that the person is not suffering from
30 an emergency medical condition, or that the health facility does
31 not have the appropriate facilities or qualified personnel available
32 to render those services.

33 (d) Emergency services and care shall be rendered without first
34 questioning the patient or any other person as to his or her ability
35 to pay therefor. However, the patient or his or her legally
36 responsible relative or guardian shall execute an agreement to pay
37 therefor or otherwise supply insurance or credit information
38 promptly after the services are rendered.

39 (e) If a health facility subject to this chapter does not maintain
40 an emergency department, its employees shall nevertheless exercise

1 reasonable care to determine whether an emergency exists and
2 shall direct the persons seeking emergency care to a nearby facility
3 ~~which~~ *that* can render the needed services, and shall assist the
4 persons seeking emergency care in obtaining the services, including
5 transportation services, in every way reasonable under the
6 circumstances.

7 (f) No act or omission of any rescue team established by any
8 health facility licensed under this chapter, or operated by the federal
9 or state government, a county, or by the Regents of the University
10 of California, done or omitted while attempting to resuscitate any
11 person who is in immediate danger of loss of life shall impose any
12 liability upon the health facility, the officers, members of the staff,
13 nurses, or employees of the health facility, including, but not
14 limited to, the members of the rescue team, or upon the federal or
15 state government or a county, if good faith is exercised.

16 (g) "Rescue team," as used in this section, means a special group
17 of physicians and surgeons, nurses, and employees of a health
18 facility who have been trained in cardiopulmonary resuscitation
19 and have been designated by the health facility to attempt, in cases
20 of emergency, to resuscitate persons who are in immediate danger
21 of loss of life.

22 (h) This section shall not relieve a health facility of any duty
23 otherwise imposed by law upon the health facility for the
24 designation and training of members of a rescue team or for the
25 provision or maintenance of equipment to be used by a rescue
26 team.

27 SEC. 38. Section 1317.3 of the Health and Safety Code is
28 amended to read:

29 1317.3. (a) As a condition of licensure, each hospital shall
30 adopt, in consultation with the medical staff, policies and transfer
31 protocols consistent with this article and regulations adopted
32 hereunder.

33 (b) As a condition of licensure, each hospital shall adopt a policy
34 prohibiting discrimination in the provision of emergency services
35 and care based on ~~race, ethnicity, religion, national origin,~~
36 citizenship, age, ~~sex,~~ preexisting medical condition, ~~physical or~~
37 ~~mental handicap,~~ insurance status, economic status, ~~or~~ ability to
38 pay for medical services, *or any characteristic listed or defined*
39 *in subdivision (b) or (e) of Section 51 of the Civil Code*, except to
40 the extent that a circumstance such as age, sex, preexisting medical

1 condition, or physical or mental ~~handicap~~ *disability* is medically
2 significant to the provision of appropriate medical care to the
3 patient. Transfer by a hospital of a patient who requires evaluation
4 for involuntary psychiatric treatment, as determined by the
5 receiving hospital or other receiving health facility, based upon
6 the decision of a professional person duly authorized by law to
7 make ~~such a~~ *that* decision, shall not constitute discrimination for
8 the purposes of this section, if the transferring hospital has not
9 been designated as an evaluation facility by a county pursuant to
10 Section 5150 of the Welfare and Institutions Code, and if the
11 transfer is in compliance with Section 1317.2.

12 (c) As a condition of licensure, each hospital shall require that
13 physicians and surgeons who serve on an “on-call” basis to the
14 hospital’s emergency room cannot refuse to respond to a call on
15 the basis of the patient’s ~~race, ethnicity, religion, national origin,~~
16 citizenship, age, ~~sex,~~ preexisting medical condition, ~~physical or~~
17 ~~mental handicap,~~ insurance status, economic status, ~~or~~ ability to
18 pay for medical services, *or any characteristic listed or defined*
19 *in subdivision (b) or (e) of Section 51 of the Civil Code*, except to
20 the extent that a circumstance such as age, sex, preexisting medical
21 condition, or physical or mental ~~handicap~~ *disability* is medically
22 significant to the provision of appropriate medical care to the
23 patient. If a contract between a physician and surgeon and hospital
24 for the provision of emergency room coverage presently prevents
25 the hospital from imposing those conditions, the conditions shall
26 be included in the contract as soon as is legally permissible.
27 Nothing in this section shall be construed as requiring that any
28 physician serve on an “on-call” basis.

29 (d) As a condition of licensure, all hospitals shall inform all
30 persons presented to an emergency room or their representatives
31 if any are present and the person is unable to understand verbal or
32 written communication, both orally and in writing, of the reasons
33 for the transfer or refusal to provide emergency services and care
34 and of the person’s right to emergency services and care prior to
35 transfer or discharge without regard to ability to pay. Nothing in
36 this subdivision requires notification of the reasons for the transfer
37 in advance of the transfer where a person is unaccompanied and
38 the hospital has made a reasonable effort to locate a representative,
39 and because of the person’s physical or mental condition,
40 notification is not possible. All hospitals shall prominently post a

1 sign in their emergency rooms informing the public of their rights.
2 Both the posted sign and written communication concerning the
3 transfer or refusal to provide emergency services and care shall
4 give the address of the department as the government agency to
5 contact in the event the person wishes to complain about the
6 hospital's conduct.

7 (e) If a hospital does not timely adopt the policies and protocols
8 required in this article, the hospital, in addition to denial or
9 revocation of any of its licenses, shall be subject to a fine not to
10 exceed one thousand dollars (\$1,000) each day after expiration of
11 60 days' written notice from the state department that the hospital's
12 policies or protocols required by this article are inadequate unless
13 the delay is excused by the state department upon a showing of
14 good and sufficient cause by the hospital. The notice shall include
15 a detailed statement of the state department's reasons for its
16 determination and suggested changes to the hospital's protocols
17 which would be acceptable to the state department.

18 (f) Each hospital's policies and protocols required in or under
19 this article shall be submitted for approval to the state department
20 by December 31, 1988.

21 SEC. 39. Section 11801 of the Health and Safety Code is
22 amended to read:

23 11801. The alcohol and drug program administrator, acting
24 through administrative channels designated pursuant to Section
25 11795, shall do all of the following:

26 (a) Coordinate and be responsible for the planning process,
27 including preparation of the county plan executing the negotiated
28 net amount contract, and Drug Medi-Cal contract, whichever is
29 applicable.

30 (b) (1) Recommend to the board of supervisors the provision
31 of services, establishment of facilities, contracting for services or
32 facilities, and other matters necessary or desirable in accomplishing
33 the purposes of this part.

34 (2) Exercise general supervision over the alcohol and other drug
35 program services provided under the county plan, negotiated net
36 amount contract, and Drug Medi-Cal contract, whichever is
37 applicable.

38 (c) Assure compliance with applicable laws relating to
39 discrimination against any person because of ~~race, creed, age,~~
40 ~~religion, sex, sexual preference, or disabling conditions~~ any

1 *characteristic listed or defined in Section 11135 of the Government*
2 *Code.*

3 (d) (1) Provide reports and information periodically to the
4 advisory board regarding the status of alcohol and other drug
5 programs in the county and keep the advisory board informed
6 regarding changes in relevant state, federal, and local laws or
7 regulations or improvements in program design and services that
8 may affect the county alcohol and other drug program.

9 (2) Submit an annual report to the board of supervisors reporting
10 all activities of the alcohol and other drug program, including a
11 financial accounting of expenditures and a forecast of anticipated
12 needs for the upcoming year.

13 (e) Be directly responsible for the administration of all alcohol
14 or other drug program funds allocated to the county under this
15 part, administration of county operated programs, and coordination
16 and monitoring of programs that have contracts with the county
17 to provide alcohol and other drug services.

18 (f) Encourage the appropriate utilization of all other public and
19 private alcohol and other drug programs and services in the county
20 in coordination with the programs funded pursuant to this part.

21 (g) Coordinate the activities of the county alcohol and other
22 drug program with appropriate health planning agencies pursuant
23 to Chapter 5 (commencing with Section 11820).

24 (h) Assure the evaluation of alcohol and other drug programs,
25 including the collection of appropriate and necessary information,
26 pursuant to Chapter 6 (commencing with Section 11825).

27 (i) Participate in the process to assure program quality in
28 compliance with appropriate standards pursuant to Chapter 7
29 (commencing with Section 11830).

30 (j) Participate in the regulations process pursuant to Chapter 8
31 (commencing with Section 11835).

32 (k) Participate and represent the county in meetings of the
33 County Alcohol and Drug Program Administrators Association of
34 California pursuant to Section 11811.5 for the purposes of
35 representing the counties in their relationship with the state with
36 respect to policies, standards, and administration for alcohol and
37 other drug abuse services.

38 (l) Provide for the orientation of the members of the advisory
39 board, including, but not limited to, the provision of information

1 and materials on alcohol and other drug problems and programs,
2 planning, procedures, and site visits to local programs.

3 (m) Perform any other acts that may be necessary, desirable, or
4 proper to carry out the purposes of this part.

5 SEC. 40. Section 10115.7 of the Public Contract Code is
6 amended to read:

7 10115.7. (a) Nothing in this article shall be construed to
8 authorize any awarding department to discriminate in the awarding
9 of any contract on the basis of ~~race, color, sex, ethnic origin, or~~
10 *ancestry or any characteristic listed or defined in Section 11135*
11 *of the Government Code.*

12 (b) Nothing in this article shall be construed to authorize any
13 contractor to discriminate in the solicitation or acceptance of bids
14 for subcontracting, or for materials or equipment, on the basis of
15 ~~race, color, sex, ethnic origin, or ancestry or any characteristic~~
16 *listed or defined in Section 11135 of the Government Code.*

17 SEC. 41. Section 5080.18 of the Public Resources Code is
18 amended to read:

19 5080.18. All concession contracts entered into pursuant to this
20 article shall contain, but ~~shall~~ *are not* be limited to, all of the
21 following provisions:

22 (a) The maximum term shall be 10 years, except that a term of
23 more than 10 years may be provided if the director determines that
24 the longer term is necessary to allow the concessionaire to amortize
25 improvements made by the concessionaire, to facilitate the full
26 utilization of a structure that is scheduled by the department for
27 replacement or redevelopment, or to serve the best interests of the
28 state. The term shall not exceed 20 years without specific
29 authorization by statute.

30 (b) Every concessionaire shall submit to the department all sales
31 and use tax returns.

32 (c) Every concession shall be subject to audit by the department.

33 (d) A performance bond shall be obtained and maintained by
34 the concessionaire. In lieu of a bond, the concessionaire may
35 substitute a deposit of funds acceptable to the department. Interest
36 on the deposit shall accrue to the concessionaire.

37 (e) The concessionaire shall obtain and maintain in force at all
38 times a policy of liability insurance in an amount adequate for the
39 nature and extent of public usage of the concession and naming
40 the state as an additional insured.

1 (f) Any discrimination by the concessionaire or his or her agents
2 or employees against any person because of ~~the race, color,~~
3 ~~religion, sex, marital status, national origin, or ancestry of that~~
4 ~~person~~ *any characteristic listed or defined in subdivision (b) or*
5 *(e) of Section 51 of the Civil Code* is prohibited.

6 (g) To be effective, any modification of the concession contract
7 shall be evidenced in writing.

8 (h) Whenever a concession contract is terminated for substantial
9 breach, there shall be no obligation on the part of the state to
10 purchase any improvements made by the concessionaire.

11 SEC. 42. Section 5080.34 of the Public Resources Code is
12 amended to read:

13 5080.34. Every agreement entered into pursuant to this article
14 and every contract for a concession on lands that are subject to an
15 agreement entered into pursuant to this article shall expressly
16 prohibit discrimination against any person because of ~~the race,~~
17 ~~color, religion, sex, marital status, national origin, or ancestry of~~
18 ~~that person~~ *any characteristic listed or defined in subdivision (b)*
19 *or (e) of Section 51 of the Civil Code.*

20 SEC. 43. Section 453 of the Public Utilities Code is amended
21 to read:

22 453. (a) No public utility shall, as to rates, charges, service,
23 facilities, or in any other respect, make or grant any preference or
24 advantage to any corporation or person or subject any corporation
25 or person to any prejudice or disadvantage.

26 (b) No public utility shall prejudice, disadvantage, or require
27 different rates or deposit amounts from a person because of ~~race,~~
28 ~~religious creed, color, national origin, ancestry, physical handicap,~~
29 ~~medical condition, occupation, sex, marital status or change in~~
30 ~~marital status~~ *or any characteristic listed or defined in subdivision*
31 *(b) or (e) of Section 51 of the Civil Code.* A person who has
32 exhausted all administrative remedies with the commission may
33 institute a suit for injunctive relief and reasonable attorney's fees
34 in cases of an alleged violation of this subdivision. If successful
35 in litigation, the prevailing party shall be awarded attorney's fees.

36 (c) No public utility shall establish or maintain any unreasonable
37 difference as to rates, charges, service, facilities, or in any other
38 respect, either as between localities or as between classes of
39 service.

1 (d) No public utility shall include with any bill for services or
2 commodities furnished any customer or subscriber any advertising
3 or literature designed or intended (1) to promote the passage or
4 defeat of a measure appearing on the ballot at any election whether
5 local, statewide, or national, (2) to promote or defeat any candidate
6 for nomination or election to any public office, (3) to promote or
7 defeat the appointment of any person to any administrative or
8 executive position in federal, state or local government, or (4) to
9 promote or defeat any change in federal, state, or local legislation
10 or regulations.

11 (e) The commission may determine any question of fact arising
12 under this section.

13 SEC. 44. Section 12751.3 of the Public Utilities Code is
14 amended to read:

15 12751.3. (a) The purpose of this section is to provide affected
16 districts with an alternative acquisition process that will result in
17 reduced costs to ratepayers. Notwithstanding Section 12751, when
18 the expenditure for the purchase of supplies and materials exceeds
19 fifty thousand dollars (\$50,000) and the district determines that
20 ratepayers reasonably can expect a net benefit in the cost of district
21 services, the district may provide for the purchase of the supplies
22 and materials by contract let in accordance with best value at the
23 lowest cost acquisition policies adopted by the board pursuant to
24 this section.

25 (b) The best value at the lowest cost acquisition policies adopted
26 pursuant to subdivision (a) shall include the following:

27 (1) Price and service level proposals that reduce the district's
28 overall operating costs.

29 (2) Supplies and materials standards that support the district's
30 strategic supplies and materials acquisition and management
31 program direction.

32 (3) A procedure for protest and resolution.

33 (c) For purposes of this section, "best value at the lowest cost
34 acquisition" means a competitive procurement process whereby
35 the award of a contract for supplies and materials may take into
36 consideration any of the following factors:

37 (1) The total cost to the district of its use or consumption of
38 supplies and materials.

39 (2) The operational cost or benefit incurred by the district as a
40 result of the contract award.

- 1 (3) The value to the district of vendor-added services.
- 2 (4) The quality, effectiveness, and innovation of supplies,
3 materials, and services.
- 4 (5) The reliability of delivery or installation schedules.
- 5 (6) The terms and conditions of product warranties and vendor
6 guarantees.
- 7 (7) The financial stability of the vendor.
- 8 (8) The vendor's quality assurance program.
- 9 (9) The vendor's experience with the provision of supplies,
10 materials, and services.
- 11 (10) The consistency of the vendor's proposed supplies,
12 materials, and services with the district's overall supplies and
13 materials procurement program.
- 14 (11) The economic benefits to the general community related
15 to job creation or retention.
- 16 (d) If a district that did not purchase supplies and materials by
17 contract let pursuant to this section before January 1, 2006, elects
18 to purchase supplies and materials by contract, let in accordance
19 with best value acquisition policies adopted by the board pursuant
20 to this section, the district shall submit a report to the Legislative
21 Analyst on or before January 1, 2011. The district shall include in
22 the report a summary of the costs and benefits of best value
23 acquisition compared to traditional low bid procurement practices.
24 The report shall also include statistics showing the number of
25 contracts awarded to small businesses, minority-owned businesses,
26 and new businesses and the number of years each contract awardee
27 had been in business. The report shall also include an analysis of
28 the effects of best value procurement practices on these businesses,
29 the nature of any disputes arising from the use of best value
30 procurement practices, and the status of those disputes. On or
31 before April 1, 2011, the Legislative Analyst shall report to the
32 Legislature on the use of "best value at lowest cost acquisition"
33 procurement practices used by municipal utility districts, and
34 recommend whether to modify this section and extend the authority
35 of additional districts to elect to purchase supplies and materials
36 by contract let in accordance with best value acquisition policies,
37 beyond January 1, 2012.
- 38 (e) The district shall ensure that all businesses have a fair and
39 equitable opportunity to compete for, and participate in, district
40 contracts and shall also ensure that discrimination in the award

1 and performance of contracts does not occur on the basis of ~~race,~~
2 ~~color, sex, national origin,~~ marital status, ~~sexual preference, creed,~~
3 ancestry, medical condition, *any characteristic listed or defined*
4 *in Section 11135 of the Government Code*, or retaliation for having
5 filed a discrimination complaint in the performance of district
6 contractual obligations.

7 (f) A district that did not purchase supplies and materials by
8 contract let pursuant to this section before January 1, 2006, shall
9 not purchase supplies and materials by contract let pursuant to this
10 section after January 1, 2012.

11 SEC. 45. Section 17269 of the Revenue and Taxation Code,
12 as added by Section 4 of Chapter 1139 of the Statutes of 1987, is
13 repealed.

14 ~~17269. Whereas, the people of the State of California desire~~
15 ~~to promote and achieve tax equity and fairness among all the state's~~
16 ~~citizens and further desire to conform to the public policy of~~
17 ~~nondiscrimination, the Legislature hereby enacts the following for~~
18 ~~these reasons and for no other purpose:~~

19 ~~(a) The provisions of Section 162(a) of the Internal Revenue~~
20 ~~Code shall not be applicable to expenses incurred by a taxpayer~~
21 ~~with respect to expenditures made at, or payments made to, a club~~
22 ~~which restricts membership or the use of its services or facilities~~
23 ~~on the basis of age, sex, race, religion, color, ancestry, or national~~
24 ~~origin:~~

25 ~~(b) A club described in subdivision (a) holding an alcoholic~~
26 ~~beverage license pursuant to Division 9 (commencing with Section~~
27 ~~23000) of the Business and Professions Code, except a club holding~~
28 ~~an alcoholic beverage license pursuant to Section 23425 thereof,~~
29 ~~shall provide on each receipt furnished to a taxpayer a printed~~
30 ~~statement as follows:~~

31 ~~“The expenditures covered by this receipt are nondeductible for~~
32 ~~state income tax purposes or franchise tax purposes.”~~

33 ~~(c) For purposes of this section:~~

34 ~~(1) “Expenses” means those expenses otherwise deductible~~
35 ~~under Section 162(a) of the Internal Revenue Code, except for~~
36 ~~subdivision (a), and includes, but is not limited to, club membership~~
37 ~~dues and assessments, food and beverage expenses, expenses for~~
38 ~~services furnished by the club, and reimbursements or salary~~
39 ~~adjustments to officers or employees for any of the preceding~~
40 ~~expenses.~~

1 ~~(2) “Club” means a club as defined in Division 9 (commencing~~
2 ~~with Section 23000) of the Business and Professions Code, except~~
3 ~~a club as defined in Section 23425 thereof.~~

4 SEC. 46. Section 17269 of the Revenue and Taxation Code,
5 as added by Section 2 of Chapter 1463 of the Statutes of 1987, is
6 amended to read:

7 17269. Whereas, the people of the State of California desire
8 to promote and achieve tax equity and fairness among all the state's
9 citizens and further desire to conform to the public policy of
10 nondiscrimination, the Legislature hereby enacts the following for
11 these reasons and for no other purpose:

12 (a) The provisions of Section 162 (a) of the Internal Revenue
13 Code shall not be applicable to expenses incurred by a taxpayer
14 with respect to expenditures made at, or payments made to, a club
15 which restricts membership or the use of its services or facilities
16 on the basis of ~~age, sex, race, religion, color, ancestry, or national~~
17 ~~origin~~ *any characteristic listed or defined in Section 11135 of the*
18 *Government Code.*

19 (b) A club described in subdivision (a) holding an alcoholic
20 beverage license pursuant to Division 9 (commencing with Section
21 23000) of the Business and Professions Code, except a club holding
22 an alcoholic beverage license pursuant to Section 23425 thereof,
23 shall provide on each receipt furnished to a taxpayer a printed
24 statement as follows:

25 “The expenditures covered by this receipt are nondeductible for
26 state income tax purposes or franchise tax purposes.”

27 (c) For purposes of this section:

28 (1) “Expenses” means those expenses otherwise deductible
29 under Section 162(a) of the Internal Revenue Code, except for
30 subdivision (a), and includes, but is not limited to, club membership
31 dues and assessments, food and beverage expenses, expenses for
32 services furnished by the club, and reimbursements or salary
33 adjustments to officers or employees for any of the preceding
34 expenses.

35 (2) “Club” means a club as defined in Division 9 (commencing
36 with Section 23000) of the Business and Professions Code, except
37 a club as defined in Section 23425 thereof.

38 SEC. 47. Section 24343.2 of the Revenue and Taxation Code
39 is amended to read:

1 24343.2. Whereas, the people of the State of California desire
2 to promote and achieve tax equity and fairness among all the state's
3 citizens and further desire to conform to the public policy of
4 nondiscrimination, the Legislature hereby enacts the following for
5 these reasons and for no other purpose:

6 (a) No deduction shall be allowed under Section 24343 for
7 expenses incurred by a taxpayer with respect to expenditures made
8 at, or payments made to, a club which restricts membership or the
9 use of its services or facilities on the basis of ~~age, sex, race,~~
10 ~~religion, color, ancestry, or national origin~~ *any characteristic listed*
11 *or defined in Section 11135 of the Government Code.*

12 (b) A club described in subdivision (a) holding an alcoholic
13 beverage license pursuant to Division 9 (commencing with Section
14 23000) of the Business and Professions Code, except a club holding
15 an alcoholic beverage license pursuant to Section 23425 thereof,
16 shall provide on each receipt furnished to a taxpayer a printed
17 statement as follows:

18 “The expenditures covered by this receipt are nondeductible for
19 state income tax purposes or franchise tax purposes.”

20 (c) For purposes of this section:

21 (1) “Expenses” means those expenses otherwise deductible
22 under Section 24343, except for subdivision (a), and includes, but
23 is not limited to, club membership dues and assessments, food and
24 beverage expenses, expenses for services furnished by the club,
25 and reimbursements or salary adjustments to officers or employees
26 for any of the preceding expenses.

27 (2) “Club” means a club as defined in Division 9 (commencing
28 with Section 23000) of the Business and Professions Code, except
29 a club as defined in Section 23425 thereof.

30 SEC. 48. Section 4666 of the Welfare and Institutions Code is
31 amended to read:

32 4666. No regional center shall conduct any meeting, conference,
33 or other function in any facility that prohibits the admittance of
34 any person, or persons, on the basis of ~~race, religious creed, color,~~
35 ~~national origin, ancestry, sex, or disability~~ *any characteristic listed*
36 *or defined in Section 11135 of the Government Code.*

37 SEC. 49. Section 5348 of the Welfare and Institutions Code is
38 amended to read:

39 5348. (a) For purposes of subdivision (e) of Section 5346, any
40 county that chooses to provide assisted outpatient treatment

1 services pursuant to this article shall offer assisted outpatient
2 treatment services including, but not limited to, all of the following:

3 (1) Community-based, mobile, multidisciplinary, highly trained
4 mental health teams that use high staff-to-client ratios of no more
5 than 10 clients per team member for those subject to court-ordered
6 services pursuant to Section 5346.

7 (2) A service planning and delivery process that includes the
8 following:

9 (A) Determination of the numbers of persons to be served and
10 the programs and services that will be provided to meet their needs.
11 The local director of mental health shall consult with the sheriff,
12 the police chief, the probation officer, the mental health board,
13 contract agencies, and family, client, ethnic, and citizen
14 constituency groups as determined by the director.

15 (B) Plans for services, including outreach to families whose
16 severely mentally ill adult is living with them, design of mental
17 health services, coordination and access to medications, psychiatric
18 and psychological services, substance abuse services, supportive
19 housing or other housing assistance, vocational rehabilitation, and
20 veterans' services. Plans shall also contain evaluation strategies,
21 that shall consider cultural, linguistic, ~~gender, age,~~ and special
22 ~~needs of minorities based on any characteristic listed or defined~~
23 *in Section 11135 of the Government Code* in the target populations.
24 Provision shall be made for staff with the cultural background and
25 linguistic skills necessary to remove barriers to mental health
26 services as a result of having limited-English-speaking ability and
27 cultural differences. Recipients of outreach services may include
28 families, the public, primary care physicians, and others who are
29 likely to come into contact with individuals who may be suffering
30 from an untreated severe mental illness who would be likely to
31 become homeless if the illness continued to be untreated for a
32 substantial period of time. Outreach to adults may include adults
33 voluntarily or involuntarily hospitalized as a result of a severe
34 mental illness.

35 (C) Provisions for services to meet the needs of persons who
36 are physically disabled.

37 (D) Provision for services to meet the special needs of older
38 adults.

1 (E) Provision for family support and consultation services,
2 parenting support and consultation services, and peer support or
3 self-help group support, where appropriate.

4 (F) Provision for services to be client-directed and that employ
5 psychosocial rehabilitation and recovery principles.

6 (G) Provision for psychiatric and psychological services that
7 are integrated with other services and for psychiatric and
8 psychological collaboration in overall service planning.

9 (H) Provision for services specifically directed to seriously
10 mentally ill young adults 25 years of age or younger who are
11 homeless or at significant risk of becoming homeless. These
12 provisions may include continuation of services that would still
13 be received through other funds had eligibility not been terminated
14 as a result of age.

15 (I) Services reflecting special needs of women from diverse
16 cultural backgrounds, including supportive housing that accepts
17 children, personal services coordinator therapeutic treatment, and
18 substance treatment programs that address gender specific trauma
19 and abuse in the lives of persons with mental illness, and vocational
20 rehabilitation programs that offer job training programs free of
21 gender bias and sensitive to the needs of women.

22 (J) Provision for housing for clients that is immediate,
23 transitional, permanent, or all of these.

24 (K) Provision for clients who have been suffering from an
25 untreated severe mental illness for less than one year, and who do
26 not require the full range of services, but are at risk of becoming
27 homeless unless a comprehensive individual and family support
28 services plan is implemented. These clients shall be served in a
29 manner that is designed to meet their needs.

30 (3) Each client shall have a clearly designated mental health
31 personal services coordinator who may be part of a
32 multidisciplinary treatment team who is responsible for providing
33 or assuring needed services. Responsibilities include complete
34 assessment of the client's needs, development of the client's
35 personal services plan, linkage with all appropriate community
36 services, monitoring of the quality and follow through of services,
37 and necessary advocacy to ensure each client receives those
38 services which are agreed to in the personal services plan. Each
39 client shall participate in the development of his or her personal
40 services plan, and responsible staff shall consult with the designated

1 conservator, if one has been appointed, and, with the consent of
2 the client, shall consult with the family and other significant
3 persons as appropriate.

4 (4) The individual personal services plan shall ensure that
5 persons subject to assisted outpatient treatment programs receive
6 age, gender, and culturally appropriate services, to the extent
7 feasible, that are designed to enable recipients to:

8 (A) Live in the most independent, least restrictive housing
9 feasible in the local community, and, for clients with children, to
10 live in a supportive housing environment that strives for
11 reunification with their children or assists clients in maintaining
12 custody of their children as is appropriate.

13 (B) Engage in the highest level of work or productive activity
14 appropriate to their abilities and experience.

15 (C) Create and maintain a support system consisting of friends,
16 family, and participation in community activities.

17 (D) Access an appropriate level of academic education or
18 vocational training.

19 (E) Obtain an adequate income.

20 (F) Self-manage their illnesses and exert as much control as
21 possible over both the day-to-day and long-term decisions that
22 affect their lives.

23 (G) Access necessary physical health care and maintain the best
24 possible physical health.

25 (H) Reduce or eliminate serious antisocial or criminal behavior,
26 and thereby reduce or eliminate their contact with the criminal
27 justice system.

28 (I) Reduce or eliminate the distress caused by the symptoms of
29 mental illness.

30 (J) Have freedom from dangerous addictive substances.

31 (5) The individual personal services plan shall describe the
32 service array that meets the requirements of paragraph (4), and to
33 the extent applicable to the individual, the requirements of
34 paragraph (2).

35 (b) Any county that provides assisted outpatient treatment
36 services pursuant to this article also shall offer the same services
37 on a voluntary basis.

38 (c) Involuntary medication shall not be allowed absent a separate
39 order by the court pursuant to Sections 5332 to 5336, inclusive.

1 (d) Each county that operates an assisted outpatient treatment
2 program pursuant to this article shall provide data to the State
3 Department of Mental Health and, based on the data, the
4 department shall report to the Legislature on or before May 1 of
5 each year in which the county provides services pursuant to this
6 article. The report shall include, at a minimum, an evaluation of
7 the effectiveness of the strategies employed by each program
8 operated pursuant to this article in reducing homelessness and
9 hospitalization of persons in the program and in reducing
10 involvement with local law enforcement by persons in the program.
11 The evaluation and report shall also include any other measures
12 identified by the department regarding persons in the program and
13 all of the following, based on information that is available:

14 (1) The number of persons served by the program and, of those,
15 the number who are able to maintain housing and the number who
16 maintain contact with the treatment system.

17 (2) The number of persons in the program with contacts with
18 local law enforcement, and the extent to which local and state
19 incarceration of persons in the program has been reduced or
20 avoided.

21 (3) The number of persons in the program participating in
22 employment services programs, including competitive employment.

23 (4) The days of hospitalization of persons in the program that
24 have been reduced or avoided.

25 (5) Adherence to prescribed treatment by persons in the program.

26 (6) Other indicators of successful engagement, if any, by persons
27 in the program.

28 (7) Victimization of persons in the program.

29 (8) Violent behavior of persons in the program.

30 (9) Substance abuse by persons in the program.

31 (10) Type, intensity, and frequency of treatment of persons in
32 the program.

33 (11) Extent to which enforcement mechanisms are used by the
34 program, when applicable.

35 (12) Social functioning of persons in the program.

36 (13) Skills in independent living of persons in the program.

37 (14) Satisfaction with program services both by those receiving
38 them and by their families, when relevant.

39 SEC. 50. Section 5806 of the Welfare and Institutions Code is
40 amended to read:

1 5806. The State Department of Mental Health shall establish
2 service standards that ensure that members of the target population
3 are identified, and services provided to assist them to live
4 independently, work, and reach their potential as productive
5 citizens. The department shall provide annual oversight of grants
6 issued pursuant to this part for compliance with these standards.
7 These standards shall include, but are not limited to, all of the
8 following:

9 (a) A service planning and delivery process that is target
10 population based and includes the following:

11 (1) Determination of the numbers of clients to be served and
12 the programs and services that will be provided to meet their needs.
13 The local director of mental health shall consult with the sheriff,
14 the police chief, the probation officer, the mental health board,
15 contract agencies, and family, client, ethnic and citizen
16 constituency groups as determined by the director.

17 (2) Plans for services, including outreach to families whose
18 severely mentally ill adult is living with them, design of mental
19 health services, coordination and access to medications, psychiatric
20 and psychological services, substance abuse services, supportive
21 housing or other housing assistance, vocational rehabilitation, and
22 veterans' services. Plans shall also contain evaluation strategies,
23 that shall consider cultural, linguistic, gender, age, and special
24 needs of minorities in the target populations. Provision shall be
25 made for staff with the cultural background and linguistic skills
26 necessary to remove barriers to mental health services due to
27 limited-English-speaking ability and cultural differences.
28 Recipients of outreach services may include families, the public,
29 primary care physicians, and others who are likely to come into
30 contact with individuals who may be suffering from an untreated
31 severe mental illness who would be likely to become homeless if
32 the illness continued to be untreated for a substantial period of
33 time. Outreach to adults may include adults voluntarily or
34 involuntarily hospitalized as a result of a severe mental illness.

35 (3) Provisions for services to meet the needs of target population
36 clients who are physically disabled.

37 (4) Provision for services to meet the special needs of older
38 adults.

1 (5) Provision for family support and consultation services,
2 parenting support and consultation services, and peer support or
3 self-help group support, where appropriate for the individual.

4 (6) Provision for services to be client-directed and that employ
5 psychosocial rehabilitation and recovery principles.

6 (7) Provision for psychiatric and psychological services that are
7 integrated with other services and for psychiatric and psychological
8 collaboration in overall service planning.

9 (8) Provision for services specifically directed to seriously
10 mentally ill young adults 25 years of age or younger who are
11 homeless or at significant risk of becoming homeless. These
12 provisions may include continuation of services that would still
13 be received through other funds had eligibility not been terminated
14 due to age.

15 (9) Services reflecting special needs of women from diverse
16 cultural backgrounds, including supportive housing that accepts
17 children, personal services coordinator therapeutic treatment, and
18 substance treatment programs that address gender specific trauma
19 and abuse in the lives of persons with mental illness, and vocational
20 rehabilitation programs that offer job training programs free of
21 gender bias and sensitive to the needs of women.

22 (10) Provision for housing for clients that is immediate,
23 transitional, permanent, or all of these.

24 (11) Provision for clients who have been suffering from an
25 untreated severe mental illness for less than one year, and who do
26 not require the full range of services but are at risk of becoming
27 homeless unless a comprehensive individual and family support
28 services plan is implemented. These clients shall be served in a
29 manner that is designed to meet their needs.

30 (b) Each client shall have a clearly designated mental health
31 personal services coordinator who may be part of a
32 multidisciplinary treatment team who is responsible for providing
33 or assuring needed services. Responsibilities include complete
34 assessment of the client's needs, development of the client's
35 personal services plan, linkage with all appropriate community
36 services, monitoring of the quality and follow through of services,
37 and necessary advocacy to ensure each client receives those
38 services which are agreed to in the personal services plan. Each
39 client shall participate in the development of his or her personal
40 services plan, and responsible staff shall consult with the designated

1 conservator, if one has been appointed, and, with the consent of
2 the client, consult with the family and other significant persons as
3 appropriate.

4 (c) The individual personal services plan shall ensure that
5 members of the target population involved in the system of care
6 receive ~~age, gender, and~~ culturally appropriate services *or*
7 *appropriate services based on any characteristic listed or defined*
8 *in Section 11135 of the Government Code*, to the extent feasible,
9 that are designed to enable recipients to:

10 (1) Live in the most independent, least restrictive housing
11 feasible in the local community, and for clients with children, to
12 live in a supportive housing environment that strives for
13 reunification with their children or assists clients in maintaining
14 custody of their children as is appropriate.

15 (2) Engage in the highest level of work or productive activity
16 appropriate to their abilities and experience.

17 (3) Create and maintain a support system consisting of friends,
18 family, and participation in community activities.

19 (4) Access an appropriate level of academic education or
20 vocational training.

21 (5) Obtain an adequate income.

22 (6) Self-manage their illness and exert as much control as
23 possible over both the day-to-day and long-term decisions which
24 affect their lives.

25 (7) Access necessary physical health care and maintain the best
26 possible physical health.

27 (8) Reduce or eliminate serious antisocial or criminal behavior
28 and thereby reduce or eliminate their contact with the criminal
29 justice system.

30 (9) Reduce or eliminate the distress caused by the symptoms of
31 mental illness.

32 (10) Have freedom from dangerous addictive substances.

33 (d) The individual personal services plan shall describe the
34 service array that meets the requirements of subdivision (c), and
35 to the extent applicable to the individual, the requirements of
36 subdivision (a).

37 SEC. 51. Section 10000 of the Welfare and Institutions Code
38 is amended to read:

39 10000. The purpose of this division is to provide for protection,
40 care, and assistance to the people of the state in need thereof, and

1 to promote the welfare and happiness of all of the people of the
2 state by providing appropriate aid and services to all of its needy
3 and distressed. It is the legislative intent that aid shall be
4 administered and services provided promptly and humanely, with
5 due regard for the preservation of family life, and without
6 discrimination on account of ~~race, national origin or ancestry,~~
7 ~~religion, sex,~~ marital status, ~~or political affiliation; and that, or any~~
8 *characteristic listed or defined in Section 11135 of the Government*
9 *Code. That aid shall be so administered and services so provided,*
10 *to the extent not in conflict with federal law, as to encourage*
11 *self-respect, self-reliance, and the desire to be a good citizen, useful*
12 *to society.*

13 SEC. 52. Section 16522.1 of the Welfare and Institutions Code
14 is amended to read:

15 16522.1. In order to be licensed pursuant to Section 1559.110
16 of the Health and Safety Code, an applicant shall obtain
17 certification from the county department of social services or the
18 county probation department that the facility program provides all
19 of the following:

20 (a) (1) Admission criteria for participants in the program,
21 including, but not limited to, consideration of the applicant's age,
22 previous placement history, delinquency history, history of drug
23 or alcohol abuse, current strengths, level of education, mental
24 health history, medical history, prospects for successful
25 participation in the program, and work experience. Youth who are
26 wards of the court described in Section 602 and youth receiving
27 psychotropic medications shall be eligible for consideration to
28 participate in the program, and shall not be automatically excluded
29 due to these factors.

30 (2) The department shall review the admission criteria to ensure
31 that the criteria are sufficient to protect participants and that they
32 do not discriminate on the basis of ~~race, gender, sexual orientation,~~
33 ~~or disability~~ *any characteristic listed or defined in Section 11135*
34 *of the Government Code.*

35 (b) Strict employment criteria that include a consideration of
36 the employee's age, drug or alcohol history, and experience in
37 working with persons in this age group.

38 (c) A training program designed to educate employees who
39 work directly with participants about the characteristics of persons
40 in this age group placed in long-term care settings, and designed

1 to ensure that these employees are able to adequately supervise
2 and counsel participants and to provide them with training in
3 independent living skills.

4 (d) A detailed plan for monitoring the placement of persons
5 under the licensee's care.

6 (e) A contract between the participating person and the licensee
7 that specifically sets out the requirements for each party, and in
8 which the licensee and the participant agree to the requirements
9 of this article.

10 (f) An allowance to be provided to each participant in the
11 program. In the case of a participant living independently, this
12 allowance shall be sufficient for the participant to purchase food
13 and other necessities.

14 (g) A system for payment for utilities, telephone, and rent.

15 (h) Policies regarding all of the following:

16 (1) Education requirements.

17 (2) Work expectations.

18 (3) Savings requirements.

19 (4) Personal safety.

20 (5) Visitors including, but not limited to, visitation by the
21 placement auditor pursuant to subdivision (d).

22 (6) Emergencies.

23 (7) Medical problems.

24 (8) Disciplinary measures.

25 (9) Child care.

26 (10) Pregnancy.

27 (11) Curfew.

28 (12) Apartment cleanliness.

29 (13) Use of utilities and telephone.

30 (14) Budgeting.

31 (15) Care of furnishings.

32 (16) Decorating of apartments.

33 (17) Cars.

34 (18) Lending or borrowing money.

35 (19) Unauthorized purchases.

36 (20) Dating.

37 (21) Grounds for termination that may include, but shall not be
38 limited to, illegal activities or harboring runaways.

39 (i) Apartment furnishings, and a policy on disposition of the
40 furnishings when the participant completes the program.

1 (j) Evaluation of the participant's progress in the program and
2 reporting to the independent living program and to the department
3 regarding that progress.

4 (k) A linkage to the federal Job Training and Partnership Act
5 (29 U.S.C. Sec. 1501 et seq.) program administered in the local
6 area to provide employment training to eligible participants.

7 SEC. 53. Section 18907 of the Welfare and Institutions Code
8 is amended to read:

9 18907. In the determination of eligibility for food stamps, there
10 shall be no discrimination against any household by reason of ~~race,~~
11 ~~color, religious creed, national origin, sex,~~ marital status, ~~or~~
12 political belief, *or any characteristic listed or defined in Section*
13 *11135 of the Government Code* to the extent not in conflict with
14 federal law.

15 SEC. 54. The changes made by Sections 2, 3, 4, 5, 6, 7, 8, 10,
16 11, 12, 13, 14, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 33, 34,
17 37, 38, 41, 42, and 43 of this act that become effective January 1,
18 2008, are intended to be construed as illustrative, rather than
19 restrictive.

ASSEMBLY BILL

No. 64

Introduced by Assembly Member Berg

December 4, 2006

An act to add Article 7.7 (commencing with Section 8599.5) to Chapter 7 of Division 1 of Title 2 of the Government Code, relating to volunteer emergency services.

LEGISLATIVE COUNSEL'S DIGEST

AB 64, as introduced, Berg. Uniform Emergency Volunteer Health Practitioners Act.

Existing law establishes, in the Governor's office, the Office of Emergency Services, which, among others things, coordinates state emergency services in the event of a natural disaster. Existing law requires the Office of Emergency Services, in consultation with appropriate state and local governmental agencies and volunteer agencies, to develop a plan for state and local governmental agencies to utilize volunteer resources during a state of emergency proclaimed by the Governor. Existing law also, until March 1, 2007, ratifies, approves, and sets forth the provisions of the Emergency Management Assistance Compact.

This bill would enact the Uniform Emergency Volunteer Health Practitioners Act, which would provide procedures to register volunteer health practitioners with valid and current licenses in other states. The bill would allow such a volunteer to practice, through a host entity, health or veterinary services as appropriate pursuant to his or her license for the duration of a state or local emergency, and would require a host entity in this state to consult and coordinate its activities with the Office of Emergency Services to the extent practicable. The bill would allow

the office to, pursuant to the Emergency Management Assistance Compact, incorporate into the emergency forces of this state or a local government in this state registered volunteer health practitioners who are not officials or employees of this state.

This bill would set forth certain scope of practice standards for a registered volunteer health practitioner during an emergency and would allow the Office of Emergency Services and applicable licensing boards to limit, restrict, or otherwise regulate specific aspects of practice. The bill would also permit a host entity to restrict the health or veterinary services that such a practitioner may provide. The bill would exempt a registered volunteer health practitioner from the unauthorized practice provisions for a health or veterinary service unless he or she has reason to know of an applicable limitation, modification, or restriction or that a similarly licensed practitioner in this state would not be permitted to provide that service. The bill would allow a health care licensing board to impose administrative sanctions upon a health practitioner licensed in this state for conduct outside of this state in response to an out-of-state emergency, and to impose administrative sanctions upon a practitioner not licensed in this state for conduct in this state in response to an in-state emergency, if certain conditions 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. Article 7.7 (commencing with Section 8599.5)
2 is added to Chapter 7 of Division 1 of Title 2 of the Government
3 Code, to read:

4
5 Article 7.7. Uniform Emergency Volunteer Health Practitioners
6 Act

7
8 8599.5. This article may be cited as the Uniform Emergency
9 Volunteer Health Practitioners Act.

10 8599.51. For the purposes of this article, the following terms
11 have the following meanings:

12 (a) "Disaster relief organization" means an entity that provides
13 emergency or disaster relief services that include health or
14 veterinary services provided by volunteer health practitioners and
15 that meets either of the following requirements:

1 (1) It is designated or recognized as a provider of those services
2 pursuant to a disaster response and recovery plan adopted by an
3 agency of the federal government or the Office of Emergency
4 Services.

5 (2) It regularly plans and conducts its activities in coordination
6 with an agency of the federal government or the Office of
7 Emergency Services.

8 (b) "Emergency" means an event or condition that is a state of
9 emergency proclaimed pursuant to Section 8625 or a local
10 emergency proclaimed pursuant to Section 8630.

11 (c) "Emergency declaration" means a proclamation of
12 emergency issued pursuant to Section 8625 or 8630.

13 (d) "Emergency Management Assistance Compact" means the
14 interstate compact approved by Congress by Public Law No.
15 104-321 and ratified in Article 3.7 (commencing with Section 179)
16 of Chapter 1 of Division 1 of Title 1.

17 (e) "Entity" means a person other than an individual.

18 (f) "Health facility" means an entity licensed under the laws of
19 this or another state to provide health or veterinary services.

20 (g) "Health practitioner" means an individual licensed under
21 the laws of this or another state to provide health or veterinary
22 services.

23 (h) "Health services" means the provision of treatment, care,
24 advice, or guidance, or other services, or supplies, related to the
25 health or death of individuals or human populations, to the extent
26 necessary to respond to an emergency, including all of the
27 following:

28 (1) Services or supplies concerning the physical or mental
29 condition or functional status of an individual or affecting the
30 structure or function of the body, including the following:

31 (A) Preventive, diagnostic, therapeutic, rehabilitative,
32 maintenance, or palliative care.

33 (B) Counseling, assessment, procedures, or other services.

34 (2) The sale or dispensing of a drug, a device, equipment, or
35 another item to an individual in accordance with a prescription.

36 (3) Funeral, cremation, cemetery, or other mortuary services.

37 (i) "Host entity" means an entity operating in this state that uses
38 volunteer health practitioners to respond to an emergency.

39 (j) "License" means authorization by a state to engage in health
40 or veterinary services that are unlawful without the authorization.

1 (k) "Person" means an individual, corporation, business trust,
2 trust, partnership, limited liability company, association, joint
3 venture, public corporation, government or governmental
4 subdivision, agency, or instrumentality, or any other legal or
5 commercial entity.

6 (l) "Scope of practice" means the extent of the authorization to
7 provide health or veterinary services granted to a health practitioner
8 by a license issued to the practitioner in the state in which the
9 principal part of the practitioner's services are rendered, including
10 any conditions imposed by the licensing authority in that state.

11 (m) "State" means a state of the United States, the District of
12 Columbia, Puerto Rico, the United States Virgin Islands, or any
13 territory or insular possession subject to the jurisdiction of the
14 United States.

15 (n) "Veterinary services" means the provision of treatment,
16 care, advice or guidance, or other services or supplies, related to
17 the health or death of an animal or to animal populations, to the
18 extent necessary to respond to an emergency, including all of the
19 following:

20 (1) Diagnosis, treatment, or prevention of an animal disease,
21 injury, or other physical or mental condition by the prescription,
22 administration, or dispensing of vaccine, medicine, surgery, or
23 therapy.

24 (2) Use of a procedure for reproductive management.

25 (3) Monitoring and treatment of animal populations for diseases
26 that have spread or demonstrate the potential to spread to humans.

27 (o) "Volunteer health practitioner" means a health practitioner
28 who provides health or veterinary services, whether or not the
29 practitioner receives compensation for those services. "Volunteer
30 health practitioner" does not include a practitioner who receives
31 compensation pursuant to a preexisting employment relationship
32 with a host entity or affiliate that requires the practitioner to provide
33 health services in this state, unless the practitioner is not a resident
34 of this state and is employed by a disaster relief organization
35 providing services in this state while an emergency declaration is
36 in effect.

37 8599.52. This article applies to volunteer health practitioners
38 registered with a registration system that complies with Section
39 8599.54 and who provide health or veterinary services in this state
40 for a host entity while an emergency declaration is in effect.

1 8599.53. (a) While an emergency declaration is in effect, the
2 Office of Emergency Services may limit, restrict, or otherwise
3 regulate all of the following:

4 (1) The duration of practice by volunteer health practitioners.

5 (2) The geographical areas in which volunteer health
6 practitioners may practice.

7 (3) The types of volunteer health practitioners who may practice.

8 (4) Any other matters necessary to coordinate effectively the
9 provision of health or veterinary services during the emergency.

10 (b) An order issued pursuant to subdivision (a) may take effect
11 immediately, without prior notice or comment, and is not a
12 regulation within the meaning of the Administrative Procedure
13 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
14 Division 3).

15 (c) A host entity that uses volunteer health practitioners to
16 provide health or veterinary services in this state shall do both of
17 the following:

18 (1) Consult and coordinate its activities with the Office of
19 Emergency Services to the extent practicable to provide for the
20 efficient and effective use of volunteer health practitioners.

21 (2) Comply with any laws other than this article relating to the
22 management of emergency health or veterinary services.

23 8599.54. (a) To qualify as a volunteer health practitioner
24 registration system, a system must do all of the following:

25 (1) Accept applications for the registration of volunteer health
26 practitioners before or during an emergency.

27 (2) Include information about the licensure and good standing
28 of health practitioners that is accessible by authorized persons.

29 (3) Be capable of confirming the accuracy of information
30 concerning whether a health practitioner is licensed and in good
31 standing before health services or veterinary services are provided
32 under this article.

33 (4) Meet at least one of the following conditions:

34 (A) Be an emergency system for advance registration of
35 volunteer healthcare practitioners established by a state and funded
36 through the Health Resources Services Administration under
37 Section 319I of the Public Health Services Act (42 U.S.C. Sec.
38 247d-7b).

39 (B) Be a local unit consisting of trained and equipped emergency
40 response, public health, and medical personnel formed pursuant

1 to Section 2801 of the Public Health Services Act (42 U.S.C. Sec.
2 300hh).

3 (C) Be operated by one of the following:

4 (i) A disaster relief organization.

5 (ii) A licensing board or bureau established pursuant to Division
6 2 (commencing with Section 500) of, or Chapter 12 (commencing
7 with Section 7600) of Division 3 of, the Business and Professions
8 Code.

9 (iii) A national or regional association of licensing boards or
10 health practitioners.

11 (iv) A health facility that provides comprehensive inpatient and
12 outpatient health care services, including a tertiary care and
13 teaching hospital.

14 (v) A governmental entity.

15 (D) Be designated by the Office of Emergency Services as a
16 registration system for purposes of this article.

17 (b) While an emergency declaration is in effect, the Office of
18 Emergency Services, a person authorized to act on behalf of the
19 office, or a host entity may confirm whether volunteer health
20 practitioners utilized in this state are registered with a registration
21 system that complies with subdivision (a). Confirmation is limited
22 to obtaining identities of the practitioners from the system and
23 determining whether the system indicates that the practitioners are
24 licensed and in good standing.

25 (c) Upon request of a person in this state authorized to manage
26 the emergency response, or a similarly authorized person in another
27 state, a registration system located in this state shall notify the
28 person of the identities of volunteer health practitioners and
29 whether the practitioners are licensed and in good standing.

30 (d) A host entity is not required to use the services of a volunteer
31 health practitioner even if the practitioner is registered with a
32 registration system that indicates that the practitioner is licensed
33 and in good standing.

34 8599.55. (a) While an emergency declaration is in effect, a
35 volunteer health practitioner, registered with a registration system
36 that complies with Section 8599.54 and licensed and in good
37 standing in the state in which the practitioner's registration is based,
38 may practice in this state to the extent authorized by this article as
39 if the practitioner were licensed in this state.

1 (b) A volunteer health practitioner qualified under subdivision
2 (a) is not entitled to the protections of this article if the practitioner
3 is licensed in more than one state and any license of the practitioner
4 is suspended, revoked, or subject to an order limiting or restricting
5 practice privileges, or has been voluntarily terminated under threat
6 of sanction.

7 8599.56. (a) For purposes of this section, the following terms
8 have the following meanings:

9 (1) "Credentialing" means obtaining, verifying, and assessing
10 the qualifications of a health practitioner to provide treatment,
11 care, or services in or for a health facility.

12 (2) "Privileging" means the authorizing by an appropriate
13 authority, such as a governing body, of a health practitioner to
14 provide specific treatment, care, or services at a health facility
15 subject to limits based on factors that include license, education,
16 training, experience, competence, health status, and specialized
17 skill.

18 (b) This article does not affect credentialing or privileging
19 standards of a health facility and does not preclude a health facility
20 from waiving or modifying those standards while an emergency
21 declaration is in effect.

22 8599.57. (a) Subject to subdivisions (b) and (c), a volunteer
23 health practitioner shall adhere to the scope of practice for a
24 similarly licensed practitioner established by the licensing
25 provisions, practice acts, or other laws of this state.

26 (b) Except as otherwise provided in subdivision (c), this article
27 does not authorize a volunteer health practitioner to provide
28 services that are outside the practitioner's scope of practice, even
29 if a similarly licensed practitioner in this state would be permitted
30 to provide the services.

31 (c) The applicable licensing board or bureau may modify or
32 restrict the health services or veterinary services regulated by that
33 body that volunteer health practitioners may provide pursuant to
34 this article. An order under this subdivision may take effect
35 immediately, without prior notice or comment, and is not a
36 regulation within the meaning of the Administrative Procedure
37 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
38 Division 3).

1 (d) A host entity may restrict the health or veterinary services
2 that a volunteer health practitioner may provide pursuant to this
3 article.

4 (e) A volunteer health practitioner shall not be found to have
5 engaged in unauthorized practice unless the practitioner has reason
6 to know of any limitation, modification, or restriction under this
7 section or that a similarly licensed practitioner in this state would
8 not be permitted to provide the services. A volunteer health
9 practitioner has reason to know of a limitation, modification, or
10 restriction or that a similarly licensed practitioner in this state
11 would not be permitted to provide a service if either:

12 (1) The practitioner knows the limitation, modification, or
13 restriction exists or that a similarly licensed practitioner in this
14 state would not be permitted to provide the service.

15 (2) From all the facts and circumstances known to the
16 practitioner at the relevant time, a reasonable person would
17 conclude that the limitation, modification, or restriction exists or
18 that a similarly licensed practitioner in this state would not be
19 permitted to provide the service.

20 (f) In addition to the authority granted by the laws of this state,
21 other than this article, to regulate the conduct of health
22 practitioners, a licensing board or other disciplinary authority in
23 this state has the following powers and duties:

24 (1) It may impose administrative sanctions upon a health
25 practitioner licensed in this state for conduct outside of this state
26 in response to an out-of-state emergency.

27 (2) It may impose administrative sanctions upon a practitioner
28 not licensed in this state for conduct in this state in response to an
29 in-state emergency.

30 (3) It shall report any administrative sanctions imposed upon a
31 practitioner licensed in another state to the appropriate licensing
32 board or other disciplinary authority in any other state in which
33 the practitioner is known to be licensed.

34 (g) In determining whether to impose administrative sanctions
35 under subdivision (f), a licensing board or other disciplinary
36 authority shall consider the circumstances in which the conduct
37 took place, including any exigent circumstances, and the
38 practitioner's scope of practice, education, training, experience,
39 and specialized skill.

1 8599.57. (a) This article does not limit rights, privileges, or
2 immunities provided to volunteer health practitioners by laws other
3 than this article. Except as otherwise provided in subdivision (b),
4 this article does not affect requirements for the use of health
5 practitioners pursuant to the Emergency Management Assistance
6 Compact.

7 (b) The Office of Emergency Services, pursuant to the
8 Emergency Management Assistance Compact, may incorporate
9 into the emergency forces of this state volunteer health practitioners
10 who are not officers or employees of this state, a political
11 subdivision of this state, or a municipality or other local
12 government within this state.

13 8599.6. The Office of Emergency Services may promulgate
14 rules to implement this article. In doing so, the office shall consult
15 with and consider the recommendations of the entity established
16 to coordinate the implementation of the Emergency Management
17 Assistance Compact and shall also consult with and consider rules
18 promulgated by similarly empowered agencies in other states to
19 promote uniformity of application of this article and make the
20 emergency response systems in the various states reasonably
21 compatible

22 8599.61. In applying and construing this article, consideration
23 shall be given to the need to promote uniformity of the law with
24 respect to its subject matter among states that enact it.

ASSEMBLY BILL

No. 106

Introduced by Assembly Member Berg

January 4, 2007

An act to add Section 120392.9 to the Health and Safety Code, relating to immunizations.

LEGISLATIVE COUNSEL'S DIGEST

AB 106, as introduced, Berg. Immunizations.

Under existing law, the State Department of Health Services is responsible for the licensure and regulation of health facilities, including general acute care hospitals, as defined.

Under existing law, the department also has responsibilities relating to the prevention and control of communicable diseases by various means, including requiring immunization by vaccine for various populations.

Existing law requires a skilled nursing facility, an intermediate care facility, or a nursing facility, as defined, to offer immunizations for influenza and pneumococcal disease to its residents, aged 65 years or older, between October 1 and April 1 of each year, and to offer pneumococcal vaccine to all new admittees. The facility is required to be reimbursed the standard Medi-Cal rate for vaccines provided to Medi-Cal recipients, except under specified circumstances. Existing law requires the facility to obtain informed consent for the immunization services from the resident or, if the person lacks the capacity to make medical decisions, for the person legally authorized to make medical decisions on the resident's behalf.

This bill would require a general acute care hospital, pursuant to its own standardized procedures and if it has the vaccine in its possession,

each year, commencing October 1 to the following April 1, inclusive, to offer, prior to discharge, immunizations for influenza and pneumococcal disease to its inpatients, aged 65 years or older.

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 120392.9 is added to the Health and
2 Safety Code, to read:
3 120392.9. Pursuant to its standardized procedures and if it has
4 the vaccine in its possession, each year, commencing October 1
5 to the following April 1, inclusive, a general acute care hospital,
6 as defined in subdivision (a) of Section 1250, shall offer, prior to
7 discharge, immunizations for influenza and pneumococcal disease
8 to inpatients, aged 65 years or older, based upon the latest
9 recommendation of the Advisory Committee on Immunization
10 Practices of the federal Centers for Disease Control and Prevention,
11 and the latest recommendations of appropriate entities for the
12 prevention, detection, and control of influenza outbreaks in
13 California general acute care hospitals.

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ASSEMBLY BILL

No. 329

Introduced by Assembly Member Nakanishi

February 13, 2007

An act relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 329, as introduced, Nakanishi. Chronic diseases: telemedicine.

Existing law, the Medical Practice Act, regulates the practice of telemedicine, defined as the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications.

This bill would declare the intent of the Legislature to enact legislation enabling the Medical Board of California to bring all interested parties together to discuss the various means of delivering health care to those with chronic diseases using telemedicine, and requiring the group to make recommendations to the Legislature on or before January 1, 2009.

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

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

1 SECTION 1. It is the intent of the Legislature to enact
2 legislation that would enable the Medical Board of California to
3 bring all interested parties together to discuss the various means
4 of delivering health care to those with chronic diseases, using best
5 practices in a telemedicine model in order to reach all Californians,
6 and that would require the group to make recommendations

1 regarding its findings to the Legislature on or before January 1,
2 2009.

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ASSEMBLY BILL

No. 374

**Introduced by Assembly Members Berg, Levine, and Nunez
(Principal coauthor: Assembly Member Feuer)**

**(Coauthors: Assembly Members Bass, Beall, Brownley, De Leon,
DeSaulnier, Dymally, Eng, Evans, Huffman, Jones, Karnette,
Laird, Leno, Ma, Saldana, and Wolk)**

**(Coauthors: Senators Calderon, Kuehl, Lowenthal, Oropeza, Romero,
Steinberg, and Wiggins)**

February 15, 2007

An act to add Chapter 3.95 (commencing with Section 7195) to Part 1 of Division 7 of the Health and Safety Code, relating to death.

LEGISLATIVE COUNSEL'S DIGEST

AB 374, as introduced, Berg. California Compassionate Choices Act.

Existing law provides for the licensure and regulation of health facilities by the State Department of Health Services. Effective July 1, 2007, responsibility for the administration of the abovementioned provisions will be transferred to the State Department of Public Health.

Existing law authorizes an adult to give an individual health care instruction and to appoint an attorney to make health care decisions for that individual in the event of his or her incapacity pursuant to a power of attorney for health care.

This bill would enact the California Compassionate Choices Act, which would authorize an adult who meets certain qualifications, and who has been determined by his or her attending physician to be suffering from a terminal disease, as defined, to make a request for medication prescribed pursuant to this bill to provide comfort with an

assurance of peaceful dying if suffering becomes unbearable. The bill would establish procedures for making these requests.

This bill would further provide that no provision in a contract, will, or other agreement, or in a health care service plan contract, policy of disability insurance, or health benefit plan contract, shall be valid to the extent it would affect whether a person may make or rescind a request for the above-described medication. The bill would prohibit the sale, procurement, or issuance of any life, health, or accident insurance or annuity policy, or the rate charged for any policy, from being conditioned upon or affected by the request. The bill would require that nothing in its provisions be construed to authorize ending a patient's life by lethal injection, mercy killing, or active euthanasia, and would provide that action taken in accordance with the act shall not constitute suicide or homicide.

This bill would provide immunity from civil or criminal liability or professional disciplinary action for participating in good faith compliance with the act. The bill would provide that no health care provider is under any duty to participate in providing to a qualified patient medication to end that patient's life and would authorize a general acute care hospital to prohibit a licensed physician from carrying out a patient's request under this act on the premises of the hospital if the hospital has notified the licensed physician of its policy regarding this act.

This bill would require the State Department of Public Health to adopt regulations regarding the collection of information to determine the use of and compliance with the act, and would require the department to annually review a sample of certain records and make a statistical report of the information collected.

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. Chapter 3.95 (commencing with Section 7195)
2 is added to Part 1 of Division 7 of the Health and Safety Code, to
3 read:

1 CHAPTER 3.95. CALIFORNIA COMPASSIONATE CHOICES ACT

2
3 Article 1. General Provisions

4
5 7195. (a) The Legislature believes that dying patients should
6 have choices throughout the continuum of palliative care and that
7 much must be done to improve access to hospice care and pain
8 management. Hospice and effective palliative care successfully
9 assist many thousands of terminally ill patients to die with dignity
10 and without pain, and the Legislature hopes that all patients
11 considering the procedures available under this chapter will
12 properly consider other options, including hospice care and
13 effective pain management. The Legislature finds that medical
14 studies have shown that between 5 and 10 percent of dying patients
15 experience severe pain and suffering that cannot be palliated by
16 the best hospice or comfort care. The Legislature finds that in
17 response to the Death with Dignity Act in the State of Oregon, that
18 the referrals to hospice increased significantly. In addition, doctors
19 significantly increased the use of morphine and other strong pain
20 medications, thus improving the end-of-life care for more dying
21 patients.

22 (b) (1) It is the intent of the Legislature that the personal and
23 autonomous choice of dying patients regarding the time and manner
24 of their death provided under this chapter be viewed as but one of
25 several end-of-life options for dying patients.

26 (2) It is the intent of the Legislature that this chapter be strictly
27 construed and not expanded in any manner. The restrictions and
28 safeguards in the provisions of this chapter are based on the intent
29 of the Legislature to balance the personal and autonomous choice
30 of dying patients regarding the time and manner of their death and
31 the Legislature's goal of providing safeguards to ensure that there
32 are not instances of a coerced, unwanted, or early death by a
33 vulnerable dying patient.

34 (3) The Legislature finds and declares that historically persons
35 with disabilities have been subject to discrimination in the
36 provision of medical care and have been treated by some as though
37 their lives were less valuable or worthy of maintenance than those
38 without disabilities. The Legislature finds that this discriminatory
39 conduct is both illegal and reprehensible.

1 (4) It is the intent of the Legislature that a disability or age alone
2 is not a reason for a patient to be a qualified patient as defined in
3 subdivision (l) of Section 7195.1. Any disabled individual or
4 elderly person, and any physician who is the attending physician
5 to these individuals, must strictly comply with all of the provisions
6 of this chapter. Strict and rigorous attention must be evidenced in
7 distinguishing chronic conditions, that are not eligible conditions
8 under this chapter, and terminal illnesses, which are eligible, as
9 described in this chapter.

10 (5) It is the intent of the Legislature for the physician discussions
11 and written patient documents in this chapter to be translated in a
12 manner that is consistent with Section 7295.2 of the Government
13 Code, Section 10133.8 of the Insurance Code, and Section 1367.04
14 if the otherwise qualified patient is non-English proficient and
15 meets the criteria of those sections.

16 7195.1. For purposes of this chapter the following definitions
17 shall apply:

18 (a) "Adult" means an individual who is 18 years of age or older.

19 (b) "Attending physician" means the physician who has primary
20 responsibility for the care of the patient and for treatment of the
21 patient's terminal disease.

22 (c) "Capable" means that in the opinion of the patient's attending
23 physician or consulting physician, a patient has the ability to make
24 and communicate health care decisions to health care providers,
25 including communication through persons familiar with the
26 patient's manner of communicating, if those persons are available.

27 (d) "Consulting physician" means a physician, other than the
28 attending physician, who is qualified by specialty or experience
29 to make a professional diagnosis and prognosis regarding the
30 patient's disease.

31 (e) "Counseling" means a consultation between a state licensed
32 psychiatrist or psychologist and a patient for the purpose of
33 determining whether the patient is suffering from a psychiatric or
34 psychological disorder, or depression causing impaired judgment.

35 (f) "Health care provider" means a person licensed, certified,
36 or otherwise authorized or permitted by the law of this state to
37 administer health care in the ordinary course of business or practice
38 of a profession, and includes a licensed health care facility.

39 (g) (1) "Health care facility" means any health facility described
40 in Section 1250.

1 (2) "Hospice" means a comprehensive, interdisciplinary program
2 of medical and socially supportive care delivered to patients with
3 a terminal disease in order to palliate their symptoms and pain
4 since the patient's condition is no longer amenable to curative
5 therapies and for whom the primary therapeutic goal is comfort
6 and dignity at the end of life.

7 (h) "Informed decision" means a decision, made by a qualified
8 patient, to request and obtain a prescription to end his or her life
9 in a humane and dignified manner, that is not based on coercion
10 by the patient's next-of-kin or any other third parties, is based on
11 an appreciation of the relevant facts, and is made after being fully
12 informed by the attending physician of all of the following:

13 (1) His or her medical diagnosis.

14 (2) His or her prognosis.

15 (3) The potential risk associated with taking the medication to
16 be prescribed.

17 (4) The probable result of taking the medication to be prescribed.

18 (5) The feasible alternatives, as provided in paragraph (5) of
19 subdivision (b) of Section 7196, including, but not limited to,
20 comfort care, hospice care, and pain control.

21 (i) "Medically confirmed" means the medical opinion of the
22 attending physician has been confirmed by a consulting physician
23 who has examined the patient and the patient's relevant medical
24 records.

25 (j) "Medication" means medication prescribed pursuant to this
26 chapter to provide comfort with an assurance of peaceful dying if
27 suffering becomes unbearable.

28 (k) "Patient" means a person who is under the care of a
29 physician.

30 (l) "Physician" means a doctor of medicine or osteopathy
31 licensed to practice medicine by the Medical Board of California.

32 (m) "Qualified patient" means a capable adult who is a resident
33 of California and has satisfied the requirements of this chapter in
34 order to obtain a prescription for medication .

35 (n) "Resident" means a person who has lived in a principal place
36 of residence in the State of California for six months or more.

37 (o) "Terminal disease" means an incurable and irreversible
38 disease that has been medically confirmed and will, within
39 reasonable medical judgment, produce death within six months.

1 7195.3. An adult who is capable, is a resident of California,
2 has been determined by the attending physician and a consulting
3 physician to be suffering from a terminal disease, and who has
4 voluntarily expressed his or her wish to obtain life-ending
5 medication to his or her attending physician shall, in addition to
6 the other requirements of this chapter, make both an oral and a
7 written request for medication in accordance with this chapter in
8 order to be eligible for qualification under this chapter.

9 7195.5. (a) A valid written request for medication under this
10 chapter shall be in substantially the form prescribed by Section
11 7199, signed and dated by the patient and witnessed by at least
12 two individuals who, in the presence of the patient, attest that to
13 the best of their knowledge and belief the patient is capable, acting
14 voluntarily, and is not being coerced to sign the request.

15 (b) Both of the witnesses shall be a person who is not any of
16 the following:

17 (1) A relative of the patient by blood, marriage, or adoption.

18 (2) A person who at the time the request is signed would be
19 entitled to any portion of the estate of the qualified patient upon
20 death under any will or by operation of law.

21 (3) An owner, operator, or employee of a health care facility
22 where the qualified patient is receiving medical treatment or is a
23 resident.

24 (c) The patient's attending physician at the time the request is
25 signed shall not be a witness.

26

27

Article 2. Safeguards

28

29 7196. Upon being voluntarily informed by a qualified patient
30 that the patient wishes to receive medication in accordance with
31 this chapter, the attending physician shall do all of the following:

32 (a) Make the initial determination of whether a patient has a
33 terminal disease, is capable, and has made the request voluntarily.

34 (b) Inform the patient of all of the following:

35 (1) His or her medical diagnosis.

36 (2) His or her prognosis.

37 (3) The potential risks associated with taking the medication to
38 be prescribed.

39 (4) The probable result of taking the medication to be prescribed.

1 (5) The feasible alternatives, including, but not limited to,
2 comfort care, hospice care, and pain control. This disclosure must
3 be provided in writing to the patient, and shall include, but not be
4 limited to, contact information about locally based providers of
5 comfort and hospice care.

6 (c) Refer the patient to a consulting physician for medical
7 confirmation of the diagnosis, and for a determination that the
8 patient is capable and acting voluntarily.

9 (d) Refer the patient for counseling, if appropriate pursuant to
10 Section 7196.2.

11 (e) Request that the patient notify next of kin.

12 (f) Inform the patient that he or she has an opportunity to rescind
13 the request at any time and in any manner, and offer the patient
14 an opportunity to rescind at the end of the 15-day waiting period
15 described in Section 7196.5.

16 (g) Verify, immediately prior to writing the prescription for
17 medication under this chapter, that the patient is making an
18 informed decision.

19 (h) Fulfill the medical record documentation requirements of
20 Section 7196.8.

21 (i) Ensure that all appropriate steps are carried out in accordance
22 with this chapter prior to writing a prescription for medication.

23 7196.1. Before a patient is qualified under this chapter, a
24 consulting physician shall examine the patient and his or her
25 relevant medical records and shall, in writing, confirm, the
26 attending physician's diagnosis and that the patient is suffering
27 from a terminal disease and verify that the patient is capable, is
28 acting voluntarily, and has made an informed decision.

29 7196.2. If, in the opinion of the attending physician or the
30 consulting physician, a patient may be suffering from a psychiatric
31 or psychological disorder that impairs judgment or from depression
32 or medication that impairs judgment, or the patient is not a hospice
33 patient, the attending physician or consulting physician shall
34 require the patient to undergo counseling as specified in subdivision
35 (e) of Section 7195.1. In this case, no medication shall be
36 prescribed unless the patient first undergoes the requisite
37 consultation or counseling and until the person performing the
38 counseling determines that the patient is not suffering from a
39 psychiatric or psychological disorder that impairs judgment, or
40 from impaired judgment caused by depression or medication.

1 7196.3. No person shall receive a prescription for medication
2 unless he or she has made an informed decision as defined in
3 subdivision (h) of Section 7195. Immediately prior to writing a
4 prescription for medication in accordance with this chapter, the
5 attending physician shall verify that the patient is making an
6 informed decision.

7 7196.4. The attending physician shall ask the patient to notify
8 the patient's next of kin of his or her request for medication
9 pursuant to this chapter. A patient who declines or is unable to
10 notify next of kin shall not have his or her request denied for that
11 reason.

12 7196.5. In order to receive a prescription for medication, a
13 qualified patient shall have made an oral request and a written
14 request, and reiterate the oral request to his or her attending
15 physician no less than 15 days after making the initial oral request.
16 At the time the qualified patient makes his or her second oral
17 request, the attending physician shall offer the patient an
18 opportunity to rescind the request.

19 7196.6. A patient may rescind his or her request at any time
20 and in any manner without regard to his or her mental state. No
21 prescription for medication under this chapter may be written
22 without the attending physician offering the qualified patient an
23 opportunity to rescind the request.

24 7196.7. No less than 15 days shall elapse between the patient's
25 initial oral request and the writing of a prescription under this
26 chapter. No less than 48 hours shall elapse between the patient's
27 written request and the writing of a prescription under this chapter.

28 7196.8. The following shall be documented or filed in the
29 patient's medical record:

- 30 (a) All oral requests by a patient for medication.
- 31 (b) All written requests by a patient for medication.
- 32 (c) The attending physician's diagnosis and prognosis, and his
33 or her determination that the patient is capable, acting voluntarily,
34 and has made an informed decision.
- 35 (d) The consulting physician's diagnosis and prognosis, and his
36 or her verification that the patient is capable, acting voluntarily,
37 and has made an informed decision.
- 38 (e) A report of the outcome and determinations made during
39 counseling, if performed.

1 (f) The attending physician's offer to the patient to rescind his
2 or her request at the time of the patient's second oral request
3 pursuant to Section 7196.5.

4 (g) The attending physician's discussion with the patient of
5 feasible alternatives, including, but not limited to, hospice care,
6 comfort care, and pain control.

7 (h) A note by the attending physician indicating that all the
8 requirements of this chapter have been met and indicating the steps
9 taken to carry out the request, including a notation of the
10 medication prescribed.

11 7196.9. Only requests made by California residents under this
12 chapter shall be granted.

13 7197.1. (a) The department shall adopt regulations regarding
14 requirements for the collection of information to determine the
15 use of and compliance with this chapter. The information collected
16 shall not be a public record and shall not be made available for
17 inspection by the public.

18 (b) The department shall generate and make available to the
19 public an annual statistical report of information collected,
20 disaggregated by age, gender, race, ethnicity, and language spoken
21 at home, pursuant to subdivision (a).

22 (c) The department shall annually review a sample of records
23 maintained pursuant to this chapter.

24 7197.3. (a) No provision in a contract, will, or other agreement,
25 whether written or oral, to the extent the provision would affect
26 whether a person may make or rescind a request for medication,
27 shall be valid.

28 (b) No obligation owing under any contract in existence on or
29 before January 1, 2008, shall be conditioned or affected by the
30 making or rescinding of a request by a person for medication.

31 (c) No health care service plan contract, as defined in
32 subdivision (r) of Section 1345, shall be conditioned upon or
33 affected by the making or rescinding of a request by a person for
34 medication. Any such contract provision shall be invalid.

35 (d) No provision of a policy of disability insurance or a health
36 benefit plan contract that provides coverage for hospital, medical,
37 or surgical expenses pursuant to Part 2 (commencing with Section
38 10110) of Division 2 of the Insurance Code shall be conditioned
39 upon or affected by the making or rescinding of a request by a

1 person to end his or her life in a humane and dignified manner.
2 Any such policy provision shall be invalid.

3 7197.5. The sale, procurement, or issuance of any life, health,
4 or accident insurance or annuity policy or the rate charged for any
5 policy shall not be conditioned upon or affected by the making or
6 rescinding of a request by a person for medication. A qualified
7 patient's act of ingesting medication to end his or her life in a
8 humane and dignified manner in accordance with this chapter shall
9 not have an effect upon a life, health, or accident insurance or
10 annuity policy.

11 7197.7. Nothing in this chapter shall be construed to authorize
12 a physician or any other person to end a patient's life by lethal
13 injection, mercy killing, or active euthanasia. The patient must
14 self-administer the medication provided under this chapter. Actions
15 taken in accordance with this chapter shall not, for any purpose,
16 constitute suicide, assisted suicide, mercy killing, or homicide,
17 under the law. Every state agency, department, or office that
18 prepares or issues a document or report that describes or refers to
19 the medical practice described in this chapter shall use the phrase
20 "aid in dying" to describe or reference the medical practice in the
21 document or report.

22 7197.8. Nothing in this chapter shall affect the authority of a
23 coroner or medical examiner to investigate a death.

24

25 Article 3. Immunities and Liabilities

26

27 7198. Except as provided in Section 7198.5:

28 (a) Notwithstanding any other provision of law, no person shall
29 be subject to civil or criminal liability or professional disciplinary
30 action for participating in good faith compliance with this chapter.
31 This includes being present when a qualified patient takes the
32 prescribed medication to end his or her life in a humane and
33 dignified manner.

34 (b) No professional organization or association, or health care
35 provider, may subject a person to censure, discipline, suspension,
36 loss of license, loss of privileges, loss of membership, or other
37 penalty for participating or refusing to participate in good faith
38 compliance with this chapter.

39 (c) No request by a patient for or provision by an attending
40 physician of medication in good faith compliance with this chapter

1 shall constitute neglect for any purpose of law or provide the sole
2 basis for the appointment of a guardian or conservator.

3 (d) No health care provider shall be under any duty, whether
4 by contract, by statute, or by any other legal requirement to
5 participate in the provision to a qualified patient of medication. If
6 a health care provider is unable or unwilling to carry out a patient's
7 request under this chapter, and the patient transfers his or her care
8 to a new health care provider, the prior health care provider shall
9 transfer, upon request, a copy of the patient's relevant medical
10 records to the new health care provider.

11 (e) Notwithstanding any other provision of law, a general acute
12 care hospital, as defined in subdivision (a) of Section 1250, may
13 prohibit a licensed physician from carrying out a patient's request
14 under this chapter on the premises of the hospital if the hospital
15 has notified the licensed physician of its policy regarding this
16 chapter.

17 7198.5. (a) Nothing in this chapter limits civil or criminal
18 liability resulting from other negligent conduct or intentional
19 misconduct by any person.

20 (b) The penalties in this chapter do not preclude criminal
21 penalties applicable under other law for conduct that is inconsistent
22 with this chapter.

23
24 Article 4. Severability

25
26 7198.9. Any section of this chapter that is held invalid as to
27 any person or circumstance shall not affect the application of any
28 other section of this chapter that can be given full effect without
29 the invalid section or portion thereof.

30
31 Article 5. Form of the Request

32
33 7199. A request for a medication as authorized by this chapter
34 shall be in substantially the following form:

35
36
37 REQUEST FOR MEDICATION
38 TO END MY LIFE IN A HUMANE AND DIGNIFIED MANNER
39 I, _____, am an adult of sound mind.

1 I am suffering from _____, which my attending physician has determined
2 is a terminal disease which will, within reasonable medical judgment, likely
3 lead to my death within six months, and which has been medically confirmed
4 by a consulting physician.

5 I have been fully informed of my diagnosis, prognosis, the nature of
6 the medication to be prescribed, and the potential associated risks, the expected
7 result, and the feasible alternatives, including comfort care, hospice care, and
8 pain control.

9 I request that my attending physician prescribe medication that will
10 allow me to hasten the end of my life in a humane and dignified manner.

11
12 INITIAL ONE:

13 _____ I have informed my family of my decision and taken their opinions
14 into consideration.

15 _____ I have decided not to inform my family of my decision.

16 _____ I have no family to inform of my decision.

17 I understand that I have the right to rescind this request at any time.

18 I understand the full import of this request, and I expect to die when I take
19 the medication to be prescribed.

20 I make this request voluntarily and without reservation, and I accept full
21 moral responsibility for my actions.

22 Signed: _____

23 Dated: _____

24
25 DECLARATION OF WITNESSES

26 We declare that the person signing this request:

27 (a) Is personally known to us or has provided proof of identity;

28 (b) Signed this request in our presence;

29 (c) Appears to be of sound mind and not under duress, fraud, or undue
30 influence;

31 (d) Is not a patient for whom either of us is the attending physician.

32 _____ Witness 1/Date

33 _____ Witness 2/Date

34
35 NOTE: Neither witness shall be a relative (by blood, marriage, or adoption)
36 of the person signing this request. Neither witness shall be entitled to any

1 portion of the person's estate upon death. Neither witness shall own, operate,
2 or be employed at a health care facility where the person is a patient or resident.
3

O

ASSEMBLY BILL

No. 436

Introduced by Assembly Member Salas

February 16, 2007

An act to add Section 130316.5 to the Health and Safety Code, relating to health records.

LEGISLATIVE COUNSEL'S DIGEST

AB 436, as introduced, Salas. Health Insurance Portability and Accountability Act of 2001.

Existing federal law, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), establishes certain requirements relating to the provision of health insurance, and the protection of privacy of individually identifiable health information. Existing law, the Health Insurance Portability and Accountability Implementation Act of 2001, requires the Office of HIPAA Implementation, established by the Governor's office within the California Health and Human Services Agency, to perform specified activities required for compliance with this federal act. These provisions will be repealed on January 1, 2008.

This bill would, notwithstanding any other provision of law or regulation, prohibit any entity subject to HIPAA from disclosing a patient's medical information without first receiving that patient's written authorization.

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 130316.5 is added to the Health and
2 Safety Code, to read:
3 130316.5. Notwithstanding any other provision of law or
4 regulation, no entity subject to HIPAA shall disclose a patient's
5 medical information without first obtaining that patient's written
6 authorization.

O

ASSEMBLY BILL

No. 519

Introduced by Assembly Member Mendoza

February 21, 2007

An act to add Section 52052.3 to the Education Code, relating to pupil achievement.

LEGISLATIVE COUNSEL'S DIGEST

AB 519, as introduced, Mendoza. Pupil achievement: Academic Performance Index.

Existing law requires the Superintendent of Public Instruction, with approval of the State Board of Education, to develop the Academic Performance Index (API), which consists of a variety of indicators currently reported to the State Department of Education, to track the achievement of schools and their pupils.

This bill would require the department to prepare and submit to the Legislature a plan to include dropout data in the API, develop a definition of the term "dropout" for that purpose, and include statistics and data in the API regarding the availability at public high schools of prerequisite courses required for admission to the California State University and the University of California.

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 52052.3 is added to the Education Code,
- 2 to read:
- 3 52052.3. The department shall do all of the following:

- 1 (a) Prepare and submit to the Legislature a plan to include
- 2 dropout data in the Academic Performance Index (API).
- 3 (b) Develop a definition of the term “dropout” for purposes of
- 4 subdivision (a).
- 5 (c) Include statistics and data in the API regarding the
- 6 availability at public high schools of prerequisite courses required
- 7 for admission to the California State University and the University
- 8 of California.

O

ASSEMBLY BILL

No. 555

Introduced by Assembly Member Nakanishi

February 21, 2007

An act relating to the healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 555, as introduced, Nakanishi. Healing arts: medical records.

Existing law, the Medical Practice Act, creates the Medical Board of California and makes it responsible for issuing a physician's and surgeon's certificate to qualified applicants and for regulating the practice of physicians and surgeons. Under existing law, a general acute care hospital is required to maintain a medical records system that organizes the records for each patient under a unique identifier but is not required to maintain the records in an electronic format.

This bill would express the Legislature's intent to require the board to work with interested parties to develop an electronic system that would allow any physician and surgeon in this state to access the medical records of the patient he or she requires in order to treat that patient.

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

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

- 1 SECTION 1. It is the intent of the Legislature to require the
- 2 Medical Board of California to work with all interested parties to
- 3 develop an electronic system that would allow any physician and

- 1 surgeon in the state to access the medical records of the patient
- 2 that the physician and surgeon requires in order to treat that patient.

O

ASSEMBLY BILL

No. 1302

Introduced by Assembly Member Horton

February 23, 2007

An act relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1302, as introduced, Horton. Health Insurance Portability and Accountability Act.

Existing law, the Health Insurance Portability and Accountability Implementation Act of 2001, sets forth processes for the implementation of the federal Health Insurance Portability and Accountability Act (HIPAA) in this state. Under existing law, this act will be repealed January 1, 2008, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

This bill would express the Legislature's intent to enact legislation relating to HIPAA.

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

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

- 1 SECTION 1. It is the intent of the Legislature to enact
- 2 legislation relating to the federal Health Insurance Portability and
- 3 Accountability Act.

O

Assembly Concurrent Resolution

No. 9

Introduced by Assembly Member Dymally

January 10, 2007

Assembly Concurrent Resolution No. 9—Relative to substance abuse.

LEGISLATIVE COUNSEL'S DIGEST

ACR 9, as introduced, Dymally. Legislative Task Force on Substance Abuse.

This measure would establish, until November 30, 2008, the Legislative Task Force on Substance Abuse. The measure would require the task force to report findings and recommendations on specified issues to the Governor and to the Legislature no later than September 30, 2008.

Fiscal committee: yes.

- 1 WHEREAS, Substance abuse is the excessive use of a substance,
2 especially alcohol or a drug; and
3 WHEREAS, Alcohol and drug use and abuse are growing
4 problems in the United States and California; and
5 WHEREAS, According to the National Institutes of Health's
6 National Institute on Drug Abuse (NIDA), drug abuse is a major
7 public health problem that impacts society on multiple levels, and
8 substance abuse costs our nation more than \$484 billion per year;
9 and
10 WHEREAS, According to the NIDA, many of America's top
11 medical problems can be directly linked to drug abuse and many
12 of America's top social problems also relate to or impact drug
13 abuse; and

1 WHEREAS, According to the State Department of Alcohol and
2 Drug Programs, alcohol and other drug abuse are major factors in
3 chronic disease, infectious disease, hospital emergency room visits,
4 newborn health problems, and violence and auto accidents; and

5 WHEREAS, In California, the estimated 2005 cost to society
6 of alcohol and other drug abuse was over \$44 billion. This estimate
7 took into consideration loss of productivity, health care costs,
8 prevention and treatment costs, criminal justice costs and losses
9 due to crime; now, therefore, be it

10 *Resolved by the Assembly of the State of California, the Senate*
11 *thereof concurring*, That the Legislative Task Force on Substance
12 Abuse is hereby established to study and investigate issues,
13 including identifying the public health implications associated
14 with substance abuse. Further, the task force shall determine both
15 private and public sector roles in providing screening, and treatment
16 benefits; and it be further

17 *Resolved*, That the task force shall identify gaps in programs,
18 services, and funding related to substance abuse and provide
19 recommendations to close the identified gaps. Specifically, the
20 task force shall identify gaps in programs and services related to
21 the education and treatment of children, adolescents, transitional
22 youth, and adults with substance abuse problems; and be it further

23 *Resolved*, That the task force shall provide recommendations
24 for the planning of a comprehensive and integrated continuum of
25 programs, services, and funding that will be required to address
26 current substance abuse epidemic; and be it further

27 *Resolved*, That the task force shall identify the public health
28 implications of substance abuse and make recommendations to
29 address these public health implications; and be it further

30 *Resolved*, That the task force shall consist of 11 members, six
31 of whom shall be members appointed by the Speaker of the
32 Assembly and five of whom shall be appointed by the Senate
33 Committee on Rules; and be it further

34 *Resolved*, That the task force shall include representatives from
35 the State Department of Alcohol and Drug Programs, the State
36 Department of Mental Health, the State Department of Public
37 Health, the State Department of Health Care Services, the
38 California State Association of Counties, two representatives of
39 the County Alcohol and Drug Program Administrators, one from
40 an urban area and another from a rural area, two health care

1 providers, a law enforcement official, and a consumer; and be it
2 further

3 *Resolved*, That the task force shall be under the direction of a
4 chair, selected from among its members and appointed by the
5 Speaker of the Assembly, and a vice chair, selected from among
6 its members and appointed by the Senate Committee on Rules;
7 and be it further

8 *Resolved*, That the task force shall submit one or more reports
9 to the Legislature and to the Governor, including its findings and
10 recommendations, by no later than, September 30, 2008; and be
11 it further

12 *Resolved*, That the task force is authorized to act until November
13 30, 2008; and be it further

14 *Resolved*, That the task force shall seek funding, technical
15 assistance, and other resources from foundations and other
16 organizations as long as that support would not pose any conflict
17 of interest and would be deemed as consistent with the goals and
18 objectives of the task force; and be it further

19 *Resolved*, That the work of the task force may be supported by
20 legislative staff and services as determined by the respective rules
21 committees; and be it further

22 *Resolved*, That the task force and its members shall have and
23 exercise all the rights, duties, and powers conferred upon
24 commissions and their members by the Joint Rules of the Senate
25 and the Assembly, as they are adopted and amended from time to
26 time, and the pertinent provisions of the Joint Rules of the Senate
27 and the Assembly shall be applicable to this task force and its
28 members; and be it further

29 *Resolved*, That the Chief Clerk of the Assembly transmit copies
30 of this resolution to the author for appropriate distribution.

Introduced by Senator Aanestad

February 14, 2007

An act to amend Section 1250 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 254, as introduced, Aanestad. Health facilities: licensure.

Existing law provides for the licensure and regulation of health facilities.

This bill would make a technical, nonsubstantive change to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

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

1 SECTION 1. Section 1250 of the Health and Safety Code is
2 amended to read:

3 1250. As used in this chapter, "health facility" means any
4 facility, place, or building that is organized, maintained, and
5 operated for the diagnosis, care, prevention, and treatment of
6 human illness, physical or mental, including convalescence and
7 rehabilitation and including care during and after pregnancy, or
8 for any one or more of these purposes, for one or more persons,
9 to which the persons are admitted for a 24-hour stay or longer, and
10 includes the following types:

11 (a) "General acute care hospital" means a health facility having
12 a duly constituted governing body with overall administrative and
13 professional responsibility and an organized medical staff that

1 provides 24-hour inpatient care, including the following basic
2 services: medical, nursing, surgical, anesthesia, laboratory,
3 radiology, pharmacy, and dietary services. A general acute care
4 hospital may include more than one physical plant maintained and
5 operated on separate premises as provided in Section 1250.8. A
6 general acute care hospital that exclusively provides acute medical
7 rehabilitation center services, including at least physical therapy,
8 occupational therapy, and speech therapy, may provide for the
9 required surgical and anesthesia services through a contract with
10 another acute care hospital. In addition, a general acute care
11 hospital that, on July 1, 1983, provided required surgical and
12 anesthesia services through a contract or agreement with another
13 acute care hospital may continue to provide these surgical and
14 anesthesia services through a contract or agreement with an acute
15 care hospital. The general acute care hospital operated by the State
16 Department of Developmental Services at Agnews Developmental
17 Center may, until June 30, 2007, provide surgery and anesthesia
18 services through a contract or agreement with another acute care
19 hospital. Notwithstanding the requirements of this subdivision, a
20 general acute care hospital operated by the Department of
21 Corrections and Rehabilitation or the Department of Veterans
22 Affairs may provide surgery and anesthesia services during normal
23 weekday working hours, and not provide these services during
24 other hours of the weekday or on weekends or holidays, if the
25 general acute care hospital otherwise meets the requirements of
26 this section.

27 A "general acute care hospital" includes a "rural general acute
28 care hospital." However, a "rural general acute care hospital" shall
29 not be required by the department to provide surgery and anesthesia
30 services. A "rural general acute care hospital" shall meet either of
31 the following conditions:

32 (1) The hospital meets criteria for designation within peer group
33 six or eight, as defined in the report entitled Hospital Peer Grouping
34 for Efficiency Comparison, dated December 20, 1982.

35 (2) The hospital meets the criteria for designation within peer
36 group five or seven, as defined in the report entitled Hospital Peer
37 Grouping for Efficiency Comparison, dated December 20, 1982,
38 and has no more than 76 acute care beds and is located in a census
39 dwelling place of 15,000 or less population according to the 1980
40 federal census.

1 (b) “Acute psychiatric hospital” means a health facility having
2 a duly constituted governing body with overall administrative and
3 professional responsibility and an organized medical staff that
4 provides 24-hour inpatient care for mentally disordered,
5 incompetent, or other patients referred to in Division 5
6 (commencing with Section 5000) or Division 6 (commencing with
7 Section 6000) of the Welfare and Institutions Code, including the
8 following basic services: medical, nursing, rehabilitative,
9 pharmacy, and dietary services.

10 (c) “Skilled nursing facility” means a health facility that provides
11 skilled nursing care and supportive care to patients whose primary
12 need is for availability of skilled nursing care on an extended basis.

13 (d) “Intermediate care facility” means a health facility that
14 provides inpatient care to ambulatory or nonambulatory patients
15 who have recurring need for skilled nursing supervision and need
16 supportive care, but who do not require availability of continuous
17 skilled nursing care.

18 (e) “Intermediate care facility/developmentally disabled
19 habilitative” means a facility with a capacity of 4 to 15 beds that
20 provides 24-hour personal care, habilitation, developmental, and
21 supportive health services to 15 or fewer developmentally disabled
22 persons who have intermittent recurring needs for nursing services,
23 but have been certified by a physician and surgeon as not requiring
24 availability of continuous skilled nursing care.

25 (f) “Special hospital” means a health facility having a duly
26 constituted governing body with overall administrative and
27 professional responsibility and an organized medical or dental staff
28 that provides inpatient or outpatient care in dentistry or maternity.

29 (g) “Intermediate care facility/developmentally disabled” means
30 a facility that provides 24-hour personal care, habilitation,
31 developmental, and supportive health services to developmentally
32 disabled clients whose primary need is for developmental services
33 and who have a recurring but intermittent need for skilled nursing
34 services.

35 (h) “Intermediate care facility/developmentally
36 disabled—nursing” means a facility with a capacity of 4 to 15 beds
37 that provides 24-hour personal care, developmental services, and
38 nursing supervision for developmentally disabled persons who
39 have intermittent recurring needs for skilled nursing care but have
40 been certified by a physician and surgeon as not requiring

1 continuous skilled nursing care. The facility shall serve medically
2 fragile persons who have developmental disabilities or demonstrate
3 significant developmental delay that may lead to a developmental
4 disability if not treated.

5 (i) (1) “Congregate living health facility” means a residential
6 home with a capacity, except as provided in paragraph (4), of no
7 more than 12 beds, that provides inpatient care, including the
8 following basic services: medical supervision, 24-hour skilled
9 nursing and supportive care, pharmacy, dietary, social, recreational,
10 and at least one type of service specified in paragraph (2). The
11 primary need of congregate living health facility residents shall
12 be for availability of skilled nursing care on a recurring,
13 intermittent, extended, or continuous basis. This care is generally
14 less intense than that provided in general acute care hospitals but
15 more intense than that provided in skilled nursing facilities.

16 (2) Congregate living health facilities shall provide one of the
17 following services:

18 (A) Services for persons who are mentally alert, physically
19 disabled persons, who may be ventilator dependent.

20 (B) Services for persons who have a diagnosis of terminal
21 illness, a diagnosis of a life-threatening illness, or both. Terminal
22 illness means the individual has a life expectancy of six months
23 or less as stated in writing by his or her attending physician and
24 surgeon. A “life-threatening illness” means the individual has an
25 illness that can lead to a possibility of a termination of life within
26 five years or less as stated in writing by his or her attending
27 physician and surgeon.

28 (C) Services for persons who are catastrophically and severely
29 disabled. A catastrophically and severely disabled person means
30 a person whose origin of disability was acquired through trauma
31 or nondegenerative neurologic illness, for whom it has been
32 determined that active rehabilitation would be beneficial and to
33 whom these services are being provided. Services offered by a
34 congregate living health facility to a catastrophically disabled
35 person shall include, but not be limited to, speech, physical, and
36 occupational therapy.

37 (3) A congregate living health facility license shall specify which
38 of the types of persons described in paragraph (2) to whom a
39 facility is licensed to provide *the* services.

1 (4) (A) A facility operated by a city and county for the purposes
2 of delivering services under this section may have a capacity of
3 59 beds.

4 (B) A congregate living health facility not operated by a city
5 and county servicing persons who are terminally ill, persons who
6 have been diagnosed with a life-threatening illness, or both, that
7 is located in a county with a population of 500,000 or more persons
8 may have not more than 25 beds for the purpose of serving
9 terminally ill persons.

10 (C) A congregate living health facility not operated by a city
11 and county serving persons who are catastrophically and severely
12 disabled, as defined in subparagraph (C) of paragraph (2) that is
13 located in a county of 500,000 or more persons may have not more
14 than 12 beds for the purpose of serving catastrophically and
15 severely disabled persons.

16 (5) A congregate living health facility shall have a
17 noninstitutional, homelike environment.

18 (j) (1) "Correctional treatment center" means a health facility
19 operated by the Department of Corrections, the Department of the
20 Youth Authority, or a county, city, or city and county law
21 enforcement agency that, as determined by the state department,
22 provides inpatient health services to that portion of the inmate
23 population who do not require a general acute care level of basic
24 services. This definition shall not apply to those areas of a law
25 enforcement facility that houses inmates or wards that may be
26 receiving outpatient services and are housed separately for reasons
27 of improved access to health care, security, and protection. The
28 health services provided by a correctional treatment center shall
29 include, but are not limited to, all of the following basic services:
30 physician and surgeon, psychiatrist, psychologist, nursing,
31 pharmacy, and dietary. A correctional treatment center may provide
32 the following services: laboratory, radiology, perinatal, and any
33 other services approved by the state department.

34 (2) Outpatient surgical care with anesthesia may be provided,
35 if the correctional treatment center meets the same requirements
36 as a surgical clinic licensed pursuant to Section 1204, with the
37 exception of the requirement that patients remain less than 24
38 hours.

39 (3) Correctional treatment centers shall maintain written service
40 agreements with general acute care hospitals to provide for those

1 inmate physical health needs that cannot be met by the correctional
2 treatment center.

3 (4) Physician and surgeon services shall be readily available in
4 a correctional treatment center on a 24-hour basis.

5 (5) It is not the intent of the Legislature to have a correctional
6 treatment center supplant the general acute care hospitals at the
7 California Medical Facility, the California Men's Colony, and the
8 California Institution for Men. This subdivision shall not be
9 construed to prohibit the Department of Corrections from obtaining
10 a correctional treatment center license at these sites.

11 (k) "Nursing facility" means a health facility licensed pursuant
12 to this chapter that is certified to participate as a provider of care
13 either as a skilled nursing facility in the federal Medicare Program
14 under Title XVIII of the federal Social Security Act or as a nursing
15 facility in the federal Medicaid Program under Title XIX of the
16 federal Social Security Act, or as both.

17 (l) Regulations defining a correctional treatment center described
18 in subdivision (j) that is operated by a county, city, or city and
19 county, the Department of Corrections, or the Department of the
20 Youth Authority, shall not become effective prior to, or if effective,
21 shall be inoperative until January 1, 1996, and until that time these
22 correctional facilities are exempt from any licensing requirements.

Introduced by Senator Calderon

February 23, 2007

An act to add Section 650.03 to the Business and Professions Code, relating to physicians and surgeons.

LEGISLATIVE COUNSEL'S DIGEST

SB 907, as introduced, Calderon. Physicians and surgeons: referrals.

Existing law, with certain exceptions, prohibits the offer, delivery, receipt, or acceptance by any healing arts licensee regulated by the Business and Professions Code or under the Chiropractic Initiative Act, of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, as compensation or an inducement for referring patients, clients, or customers to any person.

This bill would provide that it is not unlawful for a physician and surgeon to provide consideration for a referral for an elective cosmetic procedure if specified conditions are met.

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 650.03 is added to the Business and
- 2 Professions Code, to read:
- 3 650.03. Notwithstanding Section 650, or any other provision
- 4 of law, it shall not be unlawful for a physician and surgeon licensed
- 5 under this division to provide consideration for a referral if all of
- 6 the following conditions are satisfied:
- 7 (a) The referral is made by an employee of the physician and
- 8 surgeon.

- 1 (b) The referral is for an elective cosmetic procedure performed
- 2 under local anesthetic.
- 3 (c) The individual referred made the initial contact or inquiry.
- 4 (d) The physician and surgeon charges no more than his or her
- 5 usual and customary fee for the elective cosmetic procedure
- 6 performed.
- 7 (e) The consideration does not exceed two hundred fifty dollars
- 8 (\$250).
- 9 (f) The physician and surgeon discloses the referral arrangement
- 10 to the individual referred.

Introduced by Senator CalderonFebruary 23, 2007

An act to amend Section 2904 of, and to add Article 1.5 (commencing with Section 2919.10) to Chapter 6.6 of Division 2 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 993, as introduced, Calderon. Psychologists: scope of practice: prescribing drugs.

Existing law, the Psychology Licensing Law, provides for the licensure and regulation of the practice of psychology by the Board of Psychology in the Department of Consumer Affairs. Existing law excludes prescribing drugs from the scope of practice of a licensed psychologist.

This bill would, with certain exceptions, authorize the board to grant a prescription certificate or a conditional prescription certificate to a licensed psychologist authorizing, within the scope of practice of a psychologist, the prescription of certain drugs if certain conditions 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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The delivery of comprehensive, accessible, and affordable
- 4 medical care may be enhanced by providing trained medical
- 5 psychologists, licensed in California, with limited prescriptive

1 authority for the specific purpose of providing integrated mental
2 health care services. The Legislature has previously authorized
3 prescription privileges to advanced nurse practitioners,
4 optometrists, dentists, podiatrists, osteopaths, physician assistants,
5 and naturopaths.

6 (b) Psychologists with appropriate credentials have been allowed
7 to prescribe medications to active duty personnel and their families
8 in military facilities for many years. Louisiana and New Mexico
9 are two states that have adopted legislation authorizing prescriptive
10 authority for psychologists.

11 (c) For many years, psychologists in California have been
12 allowed to discuss and recommend psychotropic medications to
13 both patients and physicians. California psychologists routinely
14 collaborate with primary care physicians to provide combined
15 therapy and psychopharmacological care for their patients.
16 California psychologists have independent hospital privileges.

17 (d) California licensed psychologists complete an average of
18 seven years of postbaccalaureate study and three thousand hours
19 of postgraduate supervised practice in the diagnosis and treatment
20 of mental illness. Medical psychologists have earned additional
21 Master of Science degrees in clinical psychopharmacology, or its
22 equivalent, and passed a national examination in
23 psychopharmacology. Because the current scope of medical
24 psychologists' practice in California does not include prescribing
25 medications, patients must consult with and pay for another
26 provider to obtain the requisite prescription. However, physicians
27 are not readily available in many areas and for minority
28 populations.

29 (e) This is a particular hardship for patients residing in health
30 care treatment-shortage areas and in rural areas. For patients who
31 require treatment in county and state mental health facilities,
32 including the Department of Corrections and Rehabilitation,
33 medical psychologists could eliminate the problem of access to
34 care and psychiatrist shortages while significantly enhancing
35 mental health treatment. Timely, efficient, and cost-effective
36 treatment of mental illnesses could avoid the significantly greater
37 social, economic, and medical costs of nontreatment for these
38 needy populations.

39 (f) Research data soundly demonstrates that there is not enough
40 mental health care available to serve the needs of all people in the

1 California due to the severe shortages of psychiatrists. Further, the
2 economically disadvantaged and medically underserved would
3 receive little or no mental health services if not for the services
4 provided by clinical psychologists.

5 (g) The State of California has long recognized the
6 extraordinarily deficient mental health care of its citizens.
7 California has some of the highest rates of untreated psychological
8 concerns in the United States. Recent concerns include the
9 receivership of the prison system due to the state's inability to
10 provide adequate mental and physical health care to inmates. There
11 are several outstanding lawsuits against the State of California
12 alleging that inmates and patients at state mental hospitals are not
13 receiving constitutionally adequate mental health care due to the
14 severe shortage of competent psychiatrists.

15 (h) Further exacerbating the dire need for mental health
16 treatment in underserved areas is the fact that patients from diverse
17 cultural backgrounds are reluctant to seek treatment due to the
18 stigma of mental health problems. Timely access to accurate
19 diagnosis and effective treatment of emotional and behavioral
20 disorders also may contribute substantially to the state's
21 responsibilities to children and needy adults in underserved rural
22 areas.

23 (i) Professional psychology has developed a model curriculum
24 for the education and training of prescribing psychologists.
25 Independent evaluations of the Department of Defense
26 Psychopharmacological Demonstration Project by the United States
27 General Accounting Office and the American College of
28 Neuropsychopharmacology have found that appropriately trained
29 medical psychologists prescribe safely and effectively. Two states,
30 New Mexico and Louisiana, and the territory of Guam, now allow
31 appropriately trained psychologists to prescribe psychotropic
32 medications. Psychologists in the military have been providing
33 medication services to personnel and their families since 1990.
34 Hundreds of thousands to over 1,000,000 prescriptions written by
35 psychologists with not one patient injured. This record far exceeds
36 the safety records of any prescribing class of professionals.

37 SEC. 2. Section 2904 of the Business and Professions Code is
38 amended to read:

39 2904. The practice of psychology shall not include ~~prescribing~~
40 ~~drugs~~, performing surgery or administering electroconvulsive

1 therapy. *The practice of psychology shall not include prescribing*
2 *drugs, except as authorized pursuant to Article 1.5 (commencing*
3 *with Section 2919.10).*

4 SEC. 3. Article 1.5 (commencing with Section 2919.10) is
5 added to Chapter 6.6 of Division 2 of the Business and Professions
6 Code, to read:

7
8 Article 1.5. Prescription Certificate and Conditional Prescription
9 Certificate.

10
11 2919.10. As used in this article the following terms have the
12 following meanings, unless the context otherwise requires:

13 (a) "Board" means the Board of Psychology.

14 (b) "Collaborative relationship" means a cooperative working
15 relationship between a psychologist holding a conditional
16 prescription certificate and a doctor of medicine in the provision
17 of patient care, including diagnosis and cooperation in the
18 management and delivery of physical and mental health care.

19 (c) "Narcotics" mean natural and synthetic opioid analgesics,
20 and their derivatives used to relieve pain.

21 (d) "Nonpsychotropic treating formulary" means any medication
22 that is labeled to treat adverse conditions caused by a psychotropic
23 medication.

24 (e) "Prescribing mental health professional" means a medically
25 trained and licensed physician, psychiatrist, advance practice nurse,
26 or nurse practitioner specializing in mental health care.

27 (f) "Psychotropic medication" means only those agents related
28 to the diagnosis and treatment of mental and emotional disorders,
29 including controlled substances, except narcotics.

30 2919.15. (a) A psychologist may apply to the board for a
31 conditional prescription certificate. The application shall be made
32 on a form approved by the board, and be accompanied by evidence
33 satisfactory to the board, that the applicant complies with all of
34 the following:

35 (1) Holds a current license in good standing to practice
36 psychology in the state.

37 (2) Has successfully completed a planned sequence of
38 psychopharmacological training from an institution of higher
39 learning approved by the board, or from a continuing education
40 program consistent with professional psychology's postdoctoral

1 training in psychopharmacology or has been recommended by the
2 National Alliance of Professional Psychology Providers. Any
3 applicant who has received a postdoctoral Master of Science degree
4 in psychopharmacology from a regionally accredited institution
5 of higher learning, or an educational institution approved by the
6 state to provide this education, or received a certificate of
7 completion from an approved provider of continuing education
8 designated by the board to provide this training to California
9 licensed psychologists, shall be deemed as meeting the
10 requirements of this section. This training shall include didactic
11 classroom instruction in at least the following core areas of
12 instruction:

- 13 (A) Anatomy and physiology.
- 14 (B) Biochemistry.
- 15 (C) Neurosciences.
- 16 (D) Pharmacology.
- 17 (E) Psychopharmacology.
- 18 (F) Pathophysiology.
- 19 (G) Health assessment, including relevant physical and
20 laboratory assessment.
- 21 (H) Clinical pharmacotherapeutics.

22 (3) Has passed a national proficiency examination, approved
23 by the board, that tests the applicant's knowledge of pharmacology
24 in the diagnosis, care, and treatment of mental disorders. The board
25 shall establish what constitutes a passing score and the number of
26 times an applicant may retake the exam within a specific time
27 period.

28 (4) Applies for a federal Drug Enforcement License for limited
29 use as restricted by state law.

30 (5) Meets all other requirements, as determined by rules adopted
31 by the board pursuant to obtaining a conditional prescription
32 certificate.

33 (b) The board shall issue a conditional prescription certificate
34 if it finds that the applicant has met the requirements of this section.

35 2191.20. (a) A psychologist holding a conditional prescription
36 certificate may administer and prescribe psychotropic medication
37 within the recognized scope of the profession, including the
38 ordering and review of laboratory tests in conjunction with
39 prescribing medication for the treatment of mental disorders.

1 (b) When prescribing psychotropic medication for a patient, a
2 psychologist holding a conditional prescription certificate shall
3 maintain an ongoing collaborative relationship with the medical
4 practitioner who oversees the patient's general medical care to
5 ensure that necessary medical examinations are conducted, and to
6 be aware of any significant changes in the patient's physical
7 condition.

8 (c) A prescription written by a psychologist with a conditional
9 prescription certificate shall do all of the following:

10 (1) Comply with applicable state and federal laws.

11 (2) Be identified as issued by the psychologist as a "Medical
12 Psychologist."

13 (3) Include the psychologist's board number or the identification
14 number assigned by the department of commerce and consumer
15 affairs.

16 (d) A psychologist holding a conditional prescription certificate
17 shall not delegate prescriptive authority to any other person.
18 Records of all prescriptions shall be maintained in the prescribing
19 psychologists' patient records.

20 (e) When authorized to prescribe controlled substances, a
21 psychologist holding a conditional prescription certificate shall
22 file with the board in a timely manner all individual federal Drug
23 Enforcement Agency registrations and numbers.

24 2191.25. (a) A psychologist may apply to the board for a
25 prescription certificate. The application shall be made on a form
26 approved by the board and be accompanied by evidence satisfactory
27 to the board that the applicant complies with all of the following:

28 (1) Has been issued a conditional prescription certificate and
29 has successfully completed one year of prescribing psychotropic
30 medication.

31 (2) Holds a current license to practice psychology in California.

32 (3) Meets all other requirements, as determined by rule of the
33 board, for obtaining a prescription certificate.

34 (b) The board shall issue a prescription certificate if it finds that
35 the applicant has met the requirements of subdivision (a).

36 2191.30. A psychologist with a prescription certificate may
37 prescribe psychotropic medication if the psychologist complies
38 with all of the following:

39 (a) Continues to hold a current license to practice psychology
40 in California.

1 (b) Complies with the requirements set forth in paragraph (2)
2 of subdivision (a) of Section 2919.15.

3 (c) Annually satisfies the continuing education requirements
4 for psychologists, if any are set by the board.

5 2191.35. (a) By July 1, 2008, the board shall adopt rules
6 pursuant to establishing the procedures to be followed to obtain a
7 conditional prescription certificate, a prescription certificate, and
8 renewals of a conditional prescription certificate and prescription
9 certificate. The board may set reasonable application and renewal
10 fees.

11 (b) The board shall adopt rules pursuant to establishing the
12 grounds for denial, suspension, or revocation of a conditional
13 prescription certificate and prescription certificate including a
14 provision for suspension or revocation of a license to practice
15 psychology upon suspension or revocation of a conditional
16 prescription certificate or prescription certificate. Actions of denial,
17 suspension, or revocation of a conditional prescription certificate
18 or a prescription certificate shall be in accordance with this chapter.

19 (c) The board shall maintain current records on every prescribing
20 psychologist, including federal registrations and numbers.

21 (d) The board shall provide to the California State Board of
22 Pharmacy an annual list of psychologists holding a conditional
23 prescription certificate that contains the information agreed upon
24 between the board and the board of pharmacy. The board shall
25 promptly notify the board of pharmacy of psychologists who are
26 added or deleted from the list.

27 (e) The board shall be the sole and exclusive administrative
28 body to implement and oversee this article.

29 2191.40. (a) This article shall not be construed to permit a
30 medical psychologist to administer or prescribe a narcotic.

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

32 (1) Any person teaching, lecturing, consulting, or engaging in
33 research in psychology insofar as the activities are performed as
34 part of or are dependent upon employment in a college or
35 university, provided that the person shall not engage in the practice
36 of psychology outside the responsibilities of the person's
37 employment.

38 (2) Any person who performs any, or any combination, of the
39 professional services defined as the practice of psychology under
40 the direction of a licensed psychologist in accordance with rules

1 adopted by the board, provided that the person may use the term
2 “psychological assistant,” but shall not identify the person’s self
3 as a psychologist or imply that the person is licensed to practice
4 psychology.

5 (3) Any person employed by a local, state, or federal government
6 agency in a school psychologist or psychological examiner
7 position, or a position that does not involve diagnostic or treatment
8 services, but only at those times when that person is carrying out
9 the functions of that government employment.

10 (4) Any person who is a student of psychology, a psychological
11 intern, or a resident in psychology preparing for the profession of
12 psychology under supervision in a training institution or facility
13 and who is designated by a title as “psychology trainee,”
14 “psychology student,” “psychology intern,” or “psychology
15 resident,” that indicates the person’s training status; provided that
16 the person shall not identify the person’s self as a psychologist or
17 imply that the person is licensed to practice psychology.

18 (5) Any person who is a member of another profession licensed
19 under the laws of this jurisdiction to render or advertise services,
20 including psychotherapy, within the scope of practice as defined
21 in the statutes or rules regulating the person’s professional practice,
22 provided that the person does not represent the person’s self to be
23 a psychologist or does not represent that the person is licensed to
24 practice psychology.

25 (6) Any person who is a member of a mental health profession
26 not requiring licensure, provided that the person functions only
27 within the person’s professional capacities, and provided further
28 that the person does not represent the person to be a psychologist,
29 or the person’s services as psychological.

30 (7) Any person who is a duly recognized member of the clergy;
31 provided that the person functions only within the person’s
32 capacities as a member of the clergy; and provided further that the
33 person does not represent the person to be a psychologist, or the
34 person’s services as psychological.