

## TELECONFERENCE BOARD MEETING NOTICE AND AGENDA

The Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board (Board) will hold a Board Meeting via teleconference in accordance with Government Code section 11123, subdivision (b), and via WebEx Events on

***Friday, May 16, 2025, beginning at 9:00 a.m.***

### **TELECONFERENCE LOCATIONS FOR OBSERVATION AND PUBLIC COMMENT:**

*Board Office*

*1601 Response Road*

*Suite 260 (2<sup>nd</sup> Floor)*

*Sacramento, CA 95815*

*(916) 287-7915*

*Geleris Family Education Center*

*427 W. Carroll Avenue*

*Room 2*

*Glendora, CA 91741*

*(626) 335-0611*

### **IMPORTANT NOTICE TO THE PUBLIC:**

The Board will hold this public meeting via WebEx, to observe and participate, please log on to WebEx (Instructions to connect to this meeting can be found at the end of this agenda). To participate in the WebEx Events meeting, please log on to the following websites each day of the meeting:

#### **Friday, May 16, 2025, WebEx Link, beginning at 9:00 a.m.:**

If accessing by computer or online: Click [here](#) to join the meeting.

If joining using the link above: Webinar number: 2500 048 6304, Webinar password: SLPAHADB516

If accessing by phone: Dial +1-415-655-0001 US Toll, Access code: 2500 048 6304,  
Passcode: 75724232

Members of the public may, but are not obligated to, provide their names or personal information as a condition of observing or participating in the meeting. When signing into the WebEx platform, participants may be asked for their name and email address. Participants who choose not to provide their names will be required to provide a unique identifier, such as their initials or another alternative, so that the meeting moderator can identify individuals who wish to make a public comment. Participants who choose not to provide their email address may utilize a fictitious email address in the following sample format: XXXXX@mailinator.com

Due to potential technical difficulties, please consider submitting written comments by 5:00 pm, Wednesday, May 14, 2025, to [speechandhearing@dca.ca.gov](mailto:speechandhearing@dca.ca.gov) for consideration.

**Action may be taken on any agenda item. Items may be taken out of order to facilitate the effective transaction of Board business.**

***Friday, May 16, 2025, beginning at 9:00 a.m.***

**Board Members**

Gilda Dominguez, Speech-Language Pathologist, Board Chair  
Amy White, Dispensing Audiologist, Board Vice Chair  
Tod Borges, Hearing Aid Dispenser  
Tamara Chambers, Otolaryngologist, Public Member  
Charles Sanders, Dispensing Audiologist  
Karen Chang, Public Member  
VACANT, Hearing Aid Dispenser  
VACANT, Public Member  
VACANT, Speech-Language Pathologist

**Full Board Meeting Agenda**

**OPEN SESSION**

1. Call to Order / Roll Call / Establishment of Quorum
2. Public Comment for Items Not on the Agenda *(The Board may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125, 11125.7(a))*
3. Review and Possible Approval of the February 21, 2025, Board Meeting Minutes
4. DCA Update – DCA Board and Bureau Relations
5. Board Chair's Report
  - a) Board and Committee Meeting Calendar
  - b) Board Committee Reports
    - i. Hearing Aid Dispensing Committee
    - ii. Audiology Practice Committee
    - iii. Speech-Language Pathology Practice Committee
6. Executive Officer's Report
  - a) Administration Update
  - b) Outreach Update
  - c) Budget Report
  - d) Regulations Report
  - e) Licensing Report
  - f) Practical Examination Report
  - g) Enforcement Report
7. Legislative Report: Update, Review, and Possible Action on Proposed Legislation
  - a) Legislative Calendar and Deadlines
  - b) 2025 Board-Sponsored Legislation
    - i. SB 861 (Committee on Business, Professions and Economic Development) Consumer affairs.
  - c) Bills with Recommended Watch Status
    - i. AB AB 45 (Bauer-Kahan) Privacy: health data: location and research.
    - ii. AB 302 (Bauer-Kahan) Confidentiality of Medical Information Act.

- iii. AB 346 (Nguyen) In-home supportive services: licensed health care professional certification.
  - iv. AB 364 (DeMaio) Personal information: maintenance.
  - v. AB 410 (Wilson) Bots: disclosure.
  - vi. AB 485 (Ortega) Labor Commissioner: unsatisfied judgments: nonpayment of wages.
  - vii. AB 489 (Bonta) Health care professions: deceptive terms or letters: artificial intelligence.
  - viii. AB 667 (Solache) Professions and vocations: license examinations: interpreters.
  - ix. AB 742 (Elhawary) Department of Consumer Affairs: licensing: applicants who are descendants of slaves.
  - x. AB 784 (Hoover) Special education: specialized deaf and hard-of-hearing services.
  - xi. AB 970 (McKinnor) Child abuse and neglect reporting.
  - xii. AB 1015 (Patel) Discrimination and harassment prevention training.
  - xiii. AB 1110 (Ortega) Safety rules and regulations: notice.
  - xiv. AB 1192 (Carrillo) Child abuse or neglect: reporting.
  - xv. AB 1326 (Ahrens) Masks: individual or public health.
  - xvi. AB 1327 (Aguiar-Curry) Home improvement and home solicitation: right to cancel contracts: notice.
  - xvii. SB 81 (Arreguín) Health and care facilities: information sharing.
  - xviii. SB 402 (Valladares) Health care coverage: autism.
  - xix. SB 446 (Hurtado) Data breaches: customer notification.
  - xx. SB 470 (Laird) Bagley-Keene Open Meeting Act: teleconferencing.
  - xxi. SB 497 (Wiener) Legally protected health care activity.
  - xxii. SB 641 (Ashby) Department of Consumer Affairs and Department of Real Estate: states of emergency: waivers and exemptions.
8. Legislative Items for Future Meeting (*The Board May Discuss Other Items of Legislation in Sufficient Detail to Determine Whether Such Items Should be on a Future Board Meeting Agenda and/or Whether to Hold a Special Meeting of the Board to Discuss Such Items Pursuant to Government Code section 11125.4*)
9. Update and Discussion on the Audiology & Speech-Language Pathology Interstate Compact (ASLP-IC)

## **BREAK 12:30 – 1:00 pm (Time Approximate)**

### **OPEN SESSION**

- 10. Discussion and Possible Action to Review and Revise the Board's Administrative Procedure Manual
- 11. Discussion and Possible Action Regarding Potential Options for Obtaining Authority for and Implementing a Retired License Status for Board Licensees
- 12. Regulatory Report: Update, Review, and Possible Action on Board Regulation Packages
  - a) Update on Continuing Professional Development Requirements for Speech-Language Pathologists and Audiologists as Stated in Title 16, CCR sections 1399.160 through 1399.160.4
  - b) Update on Regulations Regarding Advertising for Hearing Aid Dispensing as stated in Title 16, CCR section 1399.127

- c) Update and Possible Action to Amend Regulations Regarding Processing Times as Stated in Title 16, CCR Sections 1399.113, 1399.141, 1399.151.1, 1399.153.2, 1399.160.6, 1399.170.4, and 1399.170.13
- d) Update and Possible Action to Audiology Licensing Requirements Related to Supervised Clinical Experience as Stated in Title 16, CCR section 1399.152.2
- e) Update on Regulations Regarding Hearing Aid Dispensers Trainee and Temporary Licensee Supervision as Stated in Title 16, CCR sections 1399.102 and 1399.115 through 1399.119
- f) Update on Regulations Regarding General Application Requirements and Hearing Aid Dispensers and Dispensing Audiologists Examination Requirements as Stated in Title 16, CCR sections 1399.112, 1399.120, 1399.121, 1399.122, and 1399.152.4
- g) Update on Regulations Regarding Approved Institutions as Stated in Title 16, CCR section 1399.152
- h) Update on Regulations Regarding Fingerprinting Requirements as Stated in Title 16, CCR sections 1399.112, 1399.151.2, and 1399.170.14

### 13. Future Agenda Items

## **CLOSED SESSION**

- 14. The Board Will Meet in Closed Session Pursuant to Government Code Section 11126(c)(3) to Discuss Disciplinary Matters Including Proposed Decisions, Stipulated Decisions, Defaults, Petitions for Reductions in Penalty, Petitions for Reconsideration, and Remands.

## **OPEN SESSION**

- 15. Adjournment

*Agendas and materials can be found on the Board's website at [www.speechandhearing.ca.gov](http://www.speechandhearing.ca.gov).*

*Action may be taken on any item on the agenda. The time and order of agenda items are subject to change at the discretion of the Board Chair and may be taken out of order. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public. In the event a quorum of the board is unable to attend the meeting, or the board is unable to maintain a quorum once the meeting is called to order, the members present may, at the Chair's discretion, continue to discuss items from the agenda and make recommendations to the full board at a future meeting. Adjournment, if it is the only item that occurs after a closed session, may not be webcast.*

*The meeting facility is accessible to persons with a disability. Any person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting the Board office at (916) 287-7915 or making a written request to Cherise Burns, Executive Officer, 1601 Response Road, Suite 260, Sacramento, California 95815. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.*

## MEMORANDUM

DATE	April 16, 2025
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Maria Liranzo, Legislation/Regulation/Budget Analyst
SUBJECT	Agenda Item 3: Review and Possible Approval of the February 21, 2025 Board Meeting Minutes

### **Background**

Attached is a draft of the meeting minutes from the February 21, 2025 Board Meeting.

### **Action Requested**

Staff recommends the Board review and discuss the provided materials. The Board may wish to determine whether or not to approve the February 21, 2025 Board Meeting minutes.

Attachment: February 21, 2025 Board Meeting Minutes

**BOARD MEETING MINUTES - DRAFT**  
**Sacramento, CA**  
**February 21, 2025**

1. Call to Order / Roll Call / Establishment of Quorum

Gilda Dominguez, Board Chair, called the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Board) meeting to order on February 21, 2025, at 8:31 a.m. Ms. Dominguez called roll; six members of the Board were present and thus a quorum was established.

**Board Members Present**

Gilda Dominguez, Speech-Language Pathologist, Board Chair  
Amy White, Dispensing Audiologist, Board Vice Chair  
Tod Borges, Hearing Aid Dispenser  
Tamara Chambers, Otolaryngologist, Public Member  
Charles Sanders, Dispensing Audiologist  
Karen Chang, Public Member

**Staff Present**

Cherise Burns, Interim Executive Officer  
Maria Liranzo, Legislation/Regulation/Budget Analyst  
Yuping Lin, DCA Legal Counsel  
Dao Choi, DCA Regulatory Counsel

2. Public Comment for Items Not on the Agenda

Ms. Dominguez asked for public comment for items not on the agenda. There were no comments from the public, outside agencies, or associations.

3. Review and Possible Approval of the December 5 - 6, 2024, Board Meeting Minutes

Ms. Dominguez opened the discussion on the review and possible approval of the minutes.  
Ms. Liranzo provided a summary of the minutes.

Ms. Dominguez asked for Board discussion.

Ms. Dominguez asked if the word "previously" can be added before "saw a statement that speech-language pathologists were not allowed to supervise occupational therapists" on page 7.  
Ms. Liranzo noted the changes.

Ms. Dominguez asked for public comments. There were no comments from the public, outside agencies, or associations.

**Amy White moved to approve the December 5 - 6, 2024, Meeting minutes as amended.**

**Tod Borges seconded the motion.**

**The motion carried 6-0.** (Ayes: Dominguez, White, Borges, Chamber, Sanders, Chang)

4. DCA Update – DCA Board and Bureau Relations

Ms. Dominguez invited staff from DCA Board and Bureau Relations to provide an update. Melissa Gear expressed gratitude for John Dandurand's service to the Board and provided an update on Board vacancy, DCA response to Los Angeles Wildfire under Executive Order N-15-25, 2025-26 state budget proposal, Form 700 electronic submission, Board Member Orientation Training, and DCA Board and Bureau Relations team.

Ms. Dominguez asked for Board discussion. There was no Board discussion.

Ms. Dominguez asked for public comments. There were no comments from the public, outside agencies, or associations.

5. Board Chair's Report

Ms. Dominguez reported on the Board meeting calendar and committee membership. Ms. Dominguez expressed gratitude for John Dandurand's service to the Board.

Ms. Dominguez asked for Board discussion. Tod Borges asked what the date for the December meeting is. Ms. Dominguez replied that it is December 4-5.

Ms. Dominguez asked for public comments. There were no comments from the public, outside agencies, or associations.

6. Petition for Penalty Relief – Modification of Probation – Arturo Avina, License # SP 27490, Case # 11-2024-046

A petition for penalty relief (modification of probation) was heard with Administrative Law Judge Wim van Rooyen presiding. The people were represented by Deputy Attorney General Jason Ahn. The petitioner, Arturo Avina, represented by Kevin Murphy.

A written transcript of the proceeding was transcribed by a court reporter.

7. The Board Will Meet in Closed Session Pursuant to Government Code Section 11126(c)(3) to Discuss Disciplinary Matters Including Proposed Decisions, Stipulated Decisions, Defaults, Petitions for Reductions in Penalty, Petitions for Reconsideration, and Remands.

The Board met in closed session to discuss disciplinary matters.

8. Pursuant to Government Code Section 11126(a)(1), the Board will Meet in Closed Session to Consider and Take Possible Action on the Appointment of an Executive Officer.

The Board met in closed session to consider and take possible action on the appointment of an Executive Officer.

## 9. Interim Executive Officer's Report

Ms. Dominguez invited Cherise Burns to provide the Interim Executive Officer's report.

Ms. Burns provided an administration update on the recruitment of an Executive Officer.

Ms. Burns reported on outreach efforts including a conference call with representatives from the California Speech Language Hearing Association (CSHA) and California Academy of Audiology, and preparing a presentation with the Board Chair for CSHA's Convergence Conference in March.

Ms. Burns reported on the budget including the budget reduction, the Board's expenditures, the potential need for an augmentation for Attorney General (AG) and Office of Administrative Hearing (OAH) costs, and the Board's fund condition.

Karen Chang asked when the Board collects recovery costs, which generally include AG and OAH cost, from licensees. Ms. Burns replied that the cost is recovered when the person petitions for their license to return to practice and the amount varies from case to case.

Ms. Chang asked if the Department of Finance will reject the request for augmentation. Ms. Burns replied that she is not aware of any request being denied.

Ms. Burns provided a brief report on the Board's regulations and deferred to the regulatory report.

Ms. Burns reported on licensing including a continued reduction in processing times and a continued increase in capacity to process more applications.

Ms. Burns reported on hearing aid dispensing practical examination results.

Ms. Burns reported on enforcement including an increase in complaints and subsequent arrest notifications, other enforcement statistics, and continuing education (CE) and continuing professional development (CPD) audits.

Mr. Borges asked what the audit looks like. Ms. Burns replied that the auditor is looking for any renewal requirements related to CE such as number of self study hours, certificate, provider status, dates of completion, and CE exemptions. Ms. Burns noted the last audit was in 2018.

Mr. Borges asked if there is a plan to increase the number of audits done in a year. Mr. Burns replied that it will be ongoing and continuous.

Mr. Borges asked if five (5) percent of the license population is the goal. Ms. Burns replied that it is to audit the entire license population over time. Ms. Burns stated that a person would not be audited twice unless they fail an audit.

Ms. Dominguez asked for public comments. There were no comments from the public, outside agencies, or associations.

10. Discussion and Possible Action to Revise the Legislative Proposal Adopted by the Board for an Omnibus Bill to Amend BPC sections 2531.3, 2532.2, 2532.3, 2532.4, 2532.6, 2532.7, 2536, and 2538.53; Education Code Section 44831; and Welfare and Institutions Code Section 14132.55



Ms. Dominguez invited Ms. Liranzo to present the legislative proposal for an omnibus bill. Ms. Liranzo provided a background and update with a summary of changes to the previously adopted proposal.

Ms. Dominguez asked for Board discussion. There was no Board discussion.

Ms. Dominguez asked for public comments. There were no comments from the public, outside agencies, or associations.

**Charles Sanders moved to adopt the legislative proposal as noticed, direct staff to take all steps necessary to submit the proposal, and authorize the Interim Executive Officer, or their designee, to take all steps necessary to complete the process for the legislative proposal.**

**Amy White seconded the motion.**

**The motion carried 6-0.** (Ayes: Dominguez, White, Borges, Chamber, Sanders, Chang)

11. Update on Adopted Regulations Regarding Advertising for Hearing Aid Dispensing as stated in Title 16, CCR section 1399.127

Ms. Dominguez invited Ms. Liranzo to present an update on adopted regulations. Ms. Liranzo provided a background and update on adopted regulations regarding advertising for hearing aid dispensing.

Ms. Dominguez asked for Board discussion. There was no Board discussion.

Ms. Dominguez asked for public comments. There were no comments from the public, outside agencies, or associations.

12. Future Agenda Items

Ms. Dominguez asked for future agenda items.

Mr. Borges asked if the list of items regarding hearing aid dispensing on a future agenda. Ms. Burns replied that it is still on the list of future agenda items.

Ms. Dominguez asked for public comments. There were no comments from the public, outside agencies, or associations.

13. Adjournment

The meeting adjourned at 3:07 p.m.

# MEMORANDUM

DATE	May 7, 2025
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Gilda Dominguez, Board Chair
SUBJECT	Agenda Item 5: Board Chair's Report

The Board Chair will provide a verbal update on Board and Committee activities and assignments.

## a. Board and Committee Meeting Calendar

Meeting Date	Location	Agenda	Meeting Materials	Minutes	Webcast
<b>2025</b>					
December 4 – 5, 2025	Southern California (TBD)				
August 21 – 22, 2025	Teleconference				
May 15 – 16, 2025	Teleconference	<a href="#">May 15 Agenda</a> <a href="#">May 16 Agenda</a>			
February 21, 2025	Sacramento, California and Teleconference	<a href="#">Agenda</a>	<a href="#">Materials</a>		<a href="#">Webcast</a>

## b. Board Committee Reports

The Hearing Aid Dispensing Committee, Audiology Practice Committee, and Speech-Language Pathology Practice Committee will provide a verbal report regarding their committee meeting.

## STANDING COMMITTEES

Standing Committee composition and leadership are determined by the Board President and are fully within the scope of the Open Meetings Act. Standing Committee meetings are often held in conjunction with regularly scheduled Board Meetings.

<b>SLP PRACTICE COMMITTEE</b> <i>Addresses changes in practice patterns and recommends position statements and/or scope of practice amendments for consideration.</i>		
<b>Name</b>	<b>Position</b>	<b>Profession</b>
Gilda Dominguez	Chair	SLP
VACANT	Member	SLP
Tamara Chambers	Member	ORL/Public
<b>AUDIOLOGY PRACTICE COMMITTEE</b> <i>Addresses changes in practice patterns and recommends position statements and/or scope of practice amendments for consideration.</i>		
<b>Name</b>	<b>Position</b>	<b>Profession</b>
Amy White	Chair	DAU
Charles Sanders	Member	DAU
Tamara Chambers	Member	ORL/Public
Karen Chang	Member	Public
<b>HEARING AID DISPENSERS PRACTICE COMMITTEE</b> <i>Addresses changes in practice patterns and recommends position statements and/or scope of practice amendments for consideration.</i>		
<b>Name</b>	<b>Position</b>	<b>Profession</b>
Tod Borges	Chair	HAD
VACANT	Member	HAD
Karen Chang	Member	Public
<b>HEARING AID DISPENSING COMMITTEE</b> <i>Provides policy and regulatory guidance with respect to hearing aid dispensing practices and recommends scope of practice amendments for consideration.</i>		
<b>Name</b>	<b>Position</b>	<b>Profession</b>
Tod Borges	Chair	HAD
VACANT	Member	HAD
Charles Sanders	Member	DAU
Amy White	Member	DAU
Tamara Chambers	Member	ORL/Public

## AD HOC COMMITTEES

Ad Hoc Committees may be established by the Board President as needed. Composition and leadership will be appointed by the Board President. Ad Hoc Committees may include the appointment of non-Board members at the Board President's discretion. Ad Hoc Committees are not fully within the scope of the Open Meetings act, however all recommendations made by Ad Hoc Committees must be reviewed and voted on by the Board in a public Board Meeting.

<b>SUNSET REVIEW AD HOC COMMITTEE</b> <i>Develop for the Board's review the Board's Sunset Review Report to the California Legislature</i>		
<b>Name</b>	<b>Position</b>	<b>Profession</b>
Gilda Dominguez	Chair	SLP
Amy White	Member	DAU
<b>ENFORCEMENT AD HOC COMMITTEE</b> <i>Review and recommend to the Board proposed revisions to the laws, regulations, and policies related to the Board's enforcement of the Boards Practice Act.</i>		
<b>Name</b>	<b>Position</b>	<b>Profession</b>
Gilda Dominguez	Chair	SLP
Tod Borges	Member	HAD
<b>LEGISLATIVE AD HOC COMMITTEE</b> <i>Review and recommend to the Board proposed positions on legislation impacting the Board, its licensees, and the Board's Practice Act</i>		
<b>Name</b>	<b>Position</b>	<b>Profession</b>
Karen Chang	Chair	Public
Gilda Dominguez	Member	SLP

**Legend:**

DAU - Dispensing Audiologist

ORL/ENT - Otolaryngologist/Ear, Nose & Throat

HAD - Hearing Aid Dispenser

SLP - Speech-Language Pathologist

# **Hand Carry Item**

Agenda Item 6:  
Executive Officer's Report

# MEMORANDUM

DATE	May 7, 2025
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Maria Liranzo, Legislation/Regulation/Budget Analyst
SUBJECT	Agenda Item 7: Legislative Report: Update, Review, and Possible Action on Proposed Legislation

## a. Legislative Calendar and Deadlines

- January 6, 2025– Legislature reconvened.
- January 10 – Budget bill was submitted by Governor.
- February 21 – Last day for bills to be introduced.
- April 10 – Spring Recess begins upon adjournment.
- April 21 – Legislature reconvenes from Spring Recess.
- May 2 – Last day for policy committees to hear and report to fiscal committees fiscal bills.
- May 9 – Last day for policy committees to hear and report to the Floor nonfiscal bills.
- May 16, 2025 – Last day for policy committees to meet prior to June 9.
- May 23 – Last day for fiscal committees to hear and report bills introduced in their house to the Floor.
- June 2-6 – Floor Session only.
- June 6 – Last day for each house to pass bills introduced in that house.
- June 9 – Committee meetings may resume.
- June 15 – Budget bill must be passed by midnight.
- July 18 – Last day for policy committees to hear and report bills. Summer Recess begins upon adjournment, provided that the Budget Bill has been passed.
- August 18 – Legislature reconvenes from Summer Recess.

## b. Board-Sponsored Legislation

### i. Senate Bill (SB) 861 (Committee on Business, Professions and Economic Development) Consumer affairs.

**Status:** This bill is in the Senate Appropriations Committee with recommendation to the Consent Calendar.

**Summary:** This bill will replace gendered pronouns with non-gendered pronouns and replace the Board's former name with its current name.

## **c. Bills on Watch Status**

### **i. Assembly Bill (AB) 45 (Bauer-Kahan) Privacy: health data: location and research.**

**Status:** This bill is in the Assembly Appropriations Committee.

**Summary:** This bill would, subject to specified exceptions, prohibit geofencing, or selling or sharing personal information with a third party to geofence an entity that provides in-person health care services in California for specified purposes, and would prohibit the use of personal information obtained in violation of this provision. The bill would also provide that a statement signed under penalty of perjury that the personal information will not be used for selling or sharing personal information in violation of these geofencing provisions is prima facie evidence that the personal information was not sold or shared in violation of these geofencing provisions. The bill would provide that violators are subject to an injunction and liable for a civil penalty assessed and recovered in a civil action brought by the Attorney General, and deposited in the California Reproductive Justice and Freedom Fund. This bill would prohibit the release of research records, in a personally identifying form, developed or acquired by a person in the course of conducting research relating to anyone seeking or obtaining health care services, or relating to personal information, in response to a subpoena or a request or to law enforcement if that subpoena, request, or the purpose of law enforcement for the medical information is based on, or for the purpose of enforcement of, either another state's laws that interfere with a foreign penal civil action.

Current law prohibits a person or business from collecting, using, disclosing, or retaining the personal information of a person who is physically located at, or within a precise geolocation of, a family planning center, except as necessary to perform the services or provide the goods requested and not sold or shared. Current law authorizes an aggrieved person or entity to institute and prosecute a civil action against a person or business for a violation of these provisions and specify damages and costs authorized to be recovered. Current law did not apply to a provider of health care, a health care service plan, or contractor, as those terms are defined in Section 56.05.

### **ii. AB 302 (Bauer-Kahan) Confidentiality of Medical Information Act.**

**Status:** This bill is in the Assembly Appropriations Committee with recommendation to the Consent Calendar.

**Summary:** This bill would revise the disclosure requirement relating to a court order to instead require disclosure if compelled by a court order issued by a California state court, including California state court orders relating to foreign subpoenas. The bill would also revise the disclosure requirement relating to a search warrant to require disclosure if compelled by a warrant from another state based on another state's law so long as that law does not interfere with California law, and execution of the search warrant would not violate specified prohibitions against enforcement actions regarding lawful abortions. The bill would delete current exceptions allowing disclosure pursuant to an express authorization by a patient, enrollee, or subscriber, and would instead prohibit a provider of health care, health care service plan, contractor, or corporation and its subsidiaries and affiliates from intentionally selling medical information or using medical information for marketing

Current law requires a provider of health care, a health care service plan, or a contractor to disclose medical information when required by law or if the disclosure is compelled by, among other things, a court order or a search warrant lawfully issued to a governmental law enforcement agency. Current law also prohibits a provider of health care, a health care service plan, or a contractor from disclosing medical information regarding a patient of the provider of health care or an enrollee or subscriber of the health care service plan without first obtaining an authorization, except as provided by California law.

**iii. AB 346 (Nguyen) In-home supportive services: licensed health care professional certification.**

**Status:** This bill is in the Assembly Appropriations Committee.

**Summary:** This bill would define “licensed health care professional” to have the same definition as “health care practitioner” as defined in Section 680 of the Business and Professions Code for the purposes of the In-Home Supportive Services (IHSS) program. The bill would also clarify that as a condition of receiving paramedical services, an applicant or recipient is required to obtain a certification from a licensed health care professional.

Current law defines a licensed health care professional to mean an individual licensed in California by the appropriate California regulatory agency, acting within the scope of their license or certificate as defined in the Business and Professions Code. Current law also defines supportive services to include those necessary paramedical services that are ordered by a licensed health care professional for purposes of the IHSS program. Current law requires an applicant for, or recipient of, IHSS services obtain a certification from a licensed health care professional declaring that the applicant or recipient is unable to perform some activities of daily living independently, and that without services to assist the applicant or recipient with activities of daily living, the applicant or recipient is at risk of placement in out-of-home care.

**iv. AB 364 (DeMaio) Personal information: maintenance.**

**Status:** This bill is in the Assembly Privacy and Consumer Protection Committee.

**Summary:** This bill would enact the Stop Foreign Governments from Accessing Californians’ Sensitive Personal Information Act as Sections 1798.100 and 1798.122 of the Civil Code and would additionally require a business to disclose to a consumer if the business intends to maintain the consumer’s personal information outside of the United States. The bill would prohibit a business from maintaining a consumer’s personal information outside of the United States unless, among other things, the consumer explicitly consented to the business maintaining the consumer’s personal information outside of the United States. The bill would also prohibit a business from maintaining personal information that is health care information, financial information, or geolocation data in the custody of a foreign government or a third party that is owned or controlled by a foreign government.

Current law, known as the California Consumer Privacy Act of 2018 (CCPA), grants a consumer various rights with respect to personal information that is collected by a business including the right to direct a business that sells or shares personal information about the consumer to third parties not to sell or share the consumer’s personal information. The CCPA



requires a business that controls the collection of a consumer's personal information to, at or before the point of collection, inform a consumer of, among other things, the categories of personal information to be collected, the purposes for which the categories of personal information are collected or used, and whether that information is sold or shared.

**v. AB 410 (Wilson) Bots: disclosure.**

**Status:** This bill is in the Assembly Judiciary Committee with recommendation to the Consent Calendar.

**Summary:** This bill would require a person who uses a bot to autonomously communicate with another to ensure that the bot discloses to any person with whom the bot communicates when the bot first communicates with the person that the bot is a bot and not a human being, answer truthfully any query from a person regarding its identity as a bot or a human, and refrain from attempting to mislead a person regarding its identity as a bot. The bill would redefine "bot" to mean an automated online account or application that a reasonable person could believe is a human being and with respect to which substantially all of the actions or posts of that account or application are the outputs of generative artificial intelligence. The bill would define "generative artificial intelligence" to mean artificial intelligence that can generate derived synthetic content, including text, images, video, and audio that emulates the structure and characteristics of the system's training data. The bill would also define "artificial intelligence" to mean an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments. The bill would exempt a person who uses a bot that is required to comply with a more prescriptive disclosure scheme. The bill would the definition of online platform and exemption for service providers of online platforms. The bill would permit the Attorney General, a district attorney, a county counsel, a city attorney, or a city prosecutor to bring an action against a person who violates this law to obtain either an injunctive relief or a civil penalty of one thousand dollars (\$1,000) per violation.

Current law makes it unlawful for any person to use a bot to communicate or interact with another person in this state online with the intent to mislead the other person about its artificial identity for the purposes of knowingly deceiving the person about the content of the communication in order to incentivize a purchase or sale of goods or services in a commercial transaction or to influence a vote in an election, unless the person using the bot discloses that it is a bot. Current law defines a "bot" as an automated online account where all or substantially all of the actions or posts of that account are not the result of a person.

**vi. AB 485 (Ortega) Labor Commissioner: unsatisfied judgments: nonpayment of wages.**

**Status:** This bill is in the Assembly Appropriations Committee's Suspense File.

**Summary:** This bill would require any state agency to deny a new license or permit or the renewal of an existing license if the applicant, licensee, or registrant is in violation of Section 238 of the Labor Code regarding unpaid wages. The bill would also require the Labor Commissioner to notify the state agency of any licensees or registrants who are in violation of Section 238 of the Labor Code.

Current law generally prohibits an employer with an unsatisfied final judgment for nonpayment of wages from continuing to conduct business in California, unless that employer has obtained a bond from a surety company and filed that bond with the Labor Commissioner. Current law requires the State Department of Public Health or the State Department of Social Services to deny a new license or the renewal of an existing license if an employer who is required to obtain a license from such department has violated this law. Current law requires the Labor Commissioner to notify those departments upon finding that an employer in the long-term care industry is violating this law.

**vii. AB 489 (Bonta) Health care professions: deceptive terms or letters: artificial intelligence.**

**Status:** This bill is in the Assembly Appropriations Committee with recommendation to the Consent Calendar.

**Summary:** This bill would prohibit the use by artificial intelligence (AI) or generative artificial intelligence (GenAI) technology of the use of terms, letters, or phrases that indicate or imply that the care, advice, reports, or assessments being provided through AI or GenAI is being provided by a natural person with the appropriated health care license or certificate. The bill would make it enforceable against an entity who develops or deploys a system or device that uses one or more of those terms, letters, or phrases in the advertising or functionality of AI or GenAI system, program, device, or similar technology. The bill would make this violation subject to the jurisdiction of the appropriate health care profession board, and would make each use of a prohibited term, letter, or phrase punishable as a separate violation.

Current law makes it a crime for a person who is not licensed as a health care professional to use certain words, letters, and phrases or any other terms that imply that they are authorized to practice that profession. Current law requires a health facility, clinic, physician's office, or office of a group practice that uses generative artificial intelligence to generate written or verbal patient communications pertaining to patient clinical information to ensure that those communications include both (1) a disclaimer that indicates to the patient that a communication was generated by generative artificial intelligence, as specified, and (2) clear instructions describing how a patient may contact a human health care provider, employee, or other appropriate person. Current law provides that a violation of these law be subject to the jurisdiction of the appropriate health care profession board

**viii. AB 667 (Solache) Professions and vocations: license examinations: interpreters.**

**Status:** This bill is in the Assembly Appropriations Committee.

**Summary:** This bill would require boards under the jurisdiction of the Department of Consumer Affairs to permit an applicant who cannot read, speak, or write in English to use an interpreter to interpret the English written and oral portions of the license examination if the applicant meets all other requirements for licensure beginning July 1, 2026. The bill would also require an interpreter to satisfy specified requirements, including not having the license for which the applicant is taking the examination, and would prohibit the assistance of an interpreter under certain circumstances, including when English language proficiency is required for the license. The bill would also require Board to post on their internet websites that an applicant may use an interpreter if they cannot read, speak, or write in English, the

examination is not offered in their preferred language, and they meet all other requirements for licensure.

**ix. AB 742 (Elhawary) Department of Consumer Affairs: licensing: applicants who are descendants of slaves.**

**Status:** This bill is in the Assembly Appropriations Committee.

**Summary:** This bill would require boards under the jurisdiction of the Department of Consumer Affairs to prioritize applicants seeking licensure who are descendants of American slaves once a process to certify descendants of American slaves is established. The bill would make this operative when the certification process is established. The bill would make this operative only if SB 518 of the 2025–26 Regular Session is enacted establishing the Bureau for Descendants of American Slavery to establish the certification process for this bill. The bill would make this effective for four (4) years from the date on which this section became operative, or until January 1, 2032, whichever is earlier, and as of that date is repealed. The bill would make operative only if SB 518 of the 2025–26 Regular Session is enacted establishing the Bureau for Descendants of American Slavery.

Current law requires boards under the jurisdiction of the Department of Consumer Affairs to expedited licensure process for honorably discharged members of the United States Armed Forces; military spouse or domestic partner; service members enrolled in Skillbridge; and refugees, asylees, and holders of special immigrant visas (SIVS).

**x. AB 784 (Hoover) Special education: specialized deaf and hard-of-hearing services.**

**Status:** This bill is in the Assembly Appropriations Committee with recommendation to the Consent Calendar.

**Summary:** This bill would prohibit those provisions from being construed to prohibit an individualized education program from including specialized deaf and hard-of-hearing related services as the only services.

Current law requires local educational agencies to identify, locate, and assess individuals with exceptional needs and to provide those individuals with a free appropriate public education in the least restrictive environment, with special education and related services, as reflected in an individualized education program. Current law defines “special education” as specially designed instruction, at no cost to the parent, to meet the unique needs of individuals with exceptional needs. Current includes in that definition speech-language pathology services and certain other services if the service is considered special education rather than a designated instruction and service or related service under state standards.

**xi. AB 970 (McKinnor) Child abuse and neglect reporting.**

**Status:** This bill is in the Assembly Public Safety Committee.

**Summary:** This bill would authorize the County of Los Angeles to establish a 2-year pilot program to test a new model for the mandatory reporting of child abuse or neglect. The bill would require the pilot program to include a comprehensive County of Los Angeles mandated

reporter training that may be made available to all mandated reporters in the county. The bill would also require the pilot program to also include an the development and deployment of an internet-based decision-support tool, developed through a collaborative process with, among others, the State Department of Social Services for mandated reporters who have completed that training. The bill would also require the decision-support tool to, among other things, make a recommendation on whether or not to report and would prohibit the decision-support tool from using predictive analysis. The bill would, during the time the pilot program is in effect, deem a mandated reporter to have satisfied their reporting duties if the reporter completed the training, used the decision-support tool, and complied with the recommended action. The bill would shield a mandated reporter who satisfied their reporting duties pursuant to this bill from civil liability or criminal penalty, and from penalties impacting their professional licenses, credentials, and certifications, for failing to report known or suspected child abuse or neglect, as well as the reporter's supervisor, employer, superior, or principal, as specified. The bill would repeal its provisions on January 1, 2030.

Current law authorizes a county welfare agency to develop a program for internet-based reporting of child abuse and neglect. Current law also authorizes a mandated reporter in a county where the program is active to use the internet-based reporting tool in lieu of the required initial telephone report.

**xii. AB 1015 (Patel) Discrimination and harassment prevention training.**

**Status:** This bill is in the Assembly Labor and Employment Committee.

**Summary:** This bill would authorize an employer to satisfy the training requirements by demonstrating that the employee possesses a certificate of completion within the past two (2) years.

Current law requires employer with five (5) or more employees to provide at least two (2) hours of classroom or other effective interactive training and education regarding sexual harassment to all supervisory employees and at least one (1) hour of classroom or other effective interactive training and education regarding sexual harassment to all nonsupervisory employees in California. Current law requires each employer provide sexual harassment training and education to each employee in California once every two years. Current law requires that an employee who has received training in compliance with the law within the prior two (2) years either from a current or a prior employer be given, and be required to read and acknowledge receipt of, the employer's antiharassment policy and requires that the employee then be put on a two-year tracking schedule based on the employee's last training. Current law places the burden of establishing that prior training was legally compliant on the employer.

**xiii. AB 1110 (Ortega) Safety rules and regulations: notice.**

**Status:** This bill is in the Assembly Appropriations Committee.

**Summary:** This bill would additionally require the notice containing information regarding safety rules and regulations in the workplace to contain the email address of the nearest division office.

Current law requires the Division of Occupational Safety and Health of the Department of Industrial Relations to prepare a notice, to be posted by employers, containing information regarding safety rules and regulations in the workplace. Current law requires the notice to contain specified items of information, including, among other things, the address and telephone number of the nearest division office.

**xiv. AB 1192 (Carrillo) Child abuse or neglect: reporting.**

**Status:** This bill is in the Assembly Appropriations Committee with recommendation to the Consent Calendar.

**Summary:** This bill would require an employee of an agency specified in Section 11165.9 of the Penal Code to additionally send a copy of the report to the attorney who represents a parent or legal guardian of the child, except when a parent whose parental rights have been terminated or a parent who is not entitled to reunification services. The bill would require the agency to redact all personal identifying information regarding all persons, other than the child, who are identified in the report. The bill would also require an employee of the agency to send a copy of the report to all attorneys who represent children with an open dependency case in that placement, subject to specified redaction if the suspected abuse or neglect occurred in a placement.

Current law requires certain professionals, including specified health practitioners and social workers, known as “mandated reporters,” employed by an agency specified in Section 11165.9 of the Penal Code to report known or suspected child abuse or neglect to a local law enforcement agency or a county welfare or probation department. Current law requires the agency to maintain a copy of the written report and provide all information requested by the attorney for the child or the child’s guardian ad litem within 30 days of the request. Current law also requires an employee of those agencies to send or have sent, within 36 hours, a copy of a report made pursuant to these laws to the attorney who represents the child, who is the subject of the report, in dependency court.

**xv. AB 1326 (Ahrens) Masks: individual or public health.**

**Status:** This bill is on the Assembly Floor, Third Reading.

**Summary:** This bill would give an individual the right to wear a mask on their face in a public place for the purpose of protecting their individual health or the public health, with regard to communicable disease, air quality, or other health factors. The bill would define a mask and a public place for purposes of this bill. The bill would not be construed as limiting or otherwise modifying the application or implementation of certain requirements for the removal of a mask relating to, among other contexts, security protocols to identify an individual, a bona fide occupational qualification, or emergency health care protocols, as specified.

**xvi. AB 1327 (Aguiar-Curry) Home improvement and home solicitation: right to cancel contracts: notice.**

**Status:** This bill is on the Assembly Floor on the Consent Calendar.

**Summary:** This bill would additionally require that notice of cancellation in home improvement or home solicitation contract or offer to also be delivered by email and require the seller to include in the contract an email address to which the notice of cancellation is to be sent and a telephone number of a support line to aid in completing the notice of cancellation, and would make conforming changes.

Current law requires a home improvement or home solicitation contract or offer to include a notice of cancellation form with specified statements as to the buyer's right to cancel, including the deliverance of such notice to the seller by mail, delivery, or telegram.

**xvii. SB 81 (Arreguín) Health and care facilities: information sharing.**

**Status:** This bill is in the Senate Appropriations Committee.

**Summary:** This bill would revise the definition of "medical information" to include immigration status, including current and prior immigration status, and place of birth. This bill would define "immigration enforcement" to mean any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration that penalizes a person's presence in, entry or reentry to, or employment in, the United States. The bill would specify that a provider of health care, health care service plan, or contractor may disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber or a health care service plan pursuant to a valid search warrant issued by a judicial officer, including a magistrate, to a governmental law enforcement agency. The bill would prohibit a provider of health care, health care service plan, contractor, or corporation and its subsidiaries and affiliates from disclosing medical information except to the extent expressly authorized by a patient, enrollee, or subscriber, or as otherwise required by law. The bill would also prohibit a provider of health care, health care service plan, contractor, or employer from allowing access to a patient for immigration enforcement to the extent permitted by state and federal law. This bill would require health care provider entities to establish or amend procedures for monitoring and receiving visitors to health care provider entities, and, when circumstances allow, require health care provider entity personnel to immediately notify health care provider entity management, administration, or legal counsel of any request for access to a health care provider entity site or patient for immigration enforcement, and to provide any requests for review of health care provider entity documents, including through a lawfully issued subpoena, warrant, or court order. The bill would prohibit a health care provider entity and its personnel from granting access to nonpublic areas of the provider's facilities for immigration enforcement without a valid judicial warrant or court order to the extent permitted by state and federal law, and require health care provider entities to inform staff and relevant volunteers on how to respond to requests relating to immigration enforcement that grants access to health care provider entity sites or to patients. This bill would define "health care provider entity" and "immigration enforcement" for the purpose of the Confidentiality of Medical Information Act (CMIA). The bill would require that health care provider entities comply within 45 days from their effective date.

Current law prohibits a provider of health care, a health care service plan, a contractor, or a corporation and its subsidiaries and affiliates from intentionally sharing, selling, using for marketing, or otherwise using any medical information for any purpose not necessary to

provide health care services to a patient, except as provided by law. The CMIA authorizes a provider of health care, health care service plan, or contractor to disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan with authorization from the patient or pursuant to a search warrant lawfully issued to a governmental law enforcement agency.

**xviii. SB 402 (Valladares) Health care coverage: autism.**

**Status:** This bill is on the Senate Floor, Third Reading.

**Summary:** This bill would define “qualified autism service provider,” “qualified autism service professional,” and “qualified autism service paraprofessional” in the Business and Professions Code. The bill would also make technical and conforming changes.

Current law defines “qualified autism service provider,” “qualified autism service professional,” and “qualified autism service paraprofessional” in the Health and Safety Code and the Insurance Code.

**xix. SB 446 (Hurtado) Data breaches: customer notification.**

**Status:** This bill is on the Senate Floor, Third Reading.

**Summary:** This bill would require that data breach disclosure to be made within 30 calendar days of discovery or notification of the data breach but would authorize an individual or business to delay the disclosure to accommodate the legitimate needs of law enforcement or as necessary to determine the scope of the breach and restore the reasonable integrity of the data system. This bill would also require an individual or business that is required to issue the security breach notification to more than 500 California residents as a result of a single breach of the security system to electronically submit a single sample copy of that security breach notification, excluding any personally identifiable information, to the Attorney General within 15 calendar days of discovery or notification of the security breach.

Current law requires an individual or a business that conducts business in California, and that owns or licenses computerized data that includes personal information, to disclose a breach of the security of the system following discovery or notification of the breach in the security of the data to a resident of California whose unencrypted personal information was compromised and requires that disclosure to be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system. Current law also requires an individual or business that is required to issue the security breach notification described above to more than 500 California residents as a result of a single breach of the security system to electronically submit a single sample copy of that security breach notification, excluding any personally identifiable information, to the Attorney General.

**xx. SB 470 (Laird) Bagley-Keene Open Meeting Act: teleconferencing.**

**Status:** This bill is on the Senate Floor, Third Reading.

**Summary:** This bill would extend the additional, alternative set of provisions under which a state body may hold a meeting by teleconference through January 1, 2030.

Current law authorizes an additional, alternative set of provisions under which a state body may hold a meeting by teleconference subject to specified requirements, including, among others, that at least one member of the state body is physically present at each teleconference location, that a majority of the members of the state body are physically present at the same teleconference location, and that members of the state body visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform. Current law authorizes, under specified circumstances, a member of the state body to participate pursuant to these provisions from a remote location, which would not be required to be accessible to the public and which the act prohibits the notice and agenda from disclosing. Current law repeals these provisions on January 1, 2026.

Current law authorizes a multimember state advisory body to hold an open meeting by teleconference pursuant to an alternative set of provisions that are in addition to the above-described provisions generally applicable to state bodies. These alternative provisions specify requirements, including, among others, that the multimember state advisory body designates the primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting, observe and hear the meeting, and participate, that at least one staff member of the state body to be present at the primary physical meeting location during the meeting, and that the members of the state body visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform. Current law repeals these provisions on January 1, 2026. Current law removes the above-described requirements for the alternative set of teleconferencing provisions for multimember state advisory bodies, and, instead, requires, among other things, that the multimember state advisory body designates the primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate beginning January 1, 2026.

**xxi. SB 497 (Wiener) Legally protected health care activity.**

**Status:** This bill is in the Senate Appropriations Committee.

**Summary:** This bill would additionally prohibit a provider of health care, a health care service plan, or a contractor from releasing medical information related to a person seeking or obtaining gender-affirming health care in response to a criminal or civil action, including a foreign subpoena, based on another state's law that interferes with an individual's right to seek or obtain gender-affirming health care. The bill would also prohibit a provider of health care, health care service plan, contractor, or employer from cooperating with or providing medical information to an individual, agency, or department from another state or, to the extent permitted by federal law, to a federal law enforcement agency that would identify an individual and that is related to an individual seeking or obtaining gender-affirming health care. This bill would not prohibit compliance with the investigation of activity that is punishable as a crime under the laws of this state. The bill would prohibit the release of medical information related to a person seeking or obtaining gender-affirming health care in response to a foreign subpoena that is based on a violation of another state's laws authorizing a criminal action against a person or entity right to seek or obtain gender-affirming health care. The bill would also generally prohibit the issuance of a subpoena based on a



violation of another state's law that interferes with a person's right to seek or obtain gender-affirming health care.

Current law prohibits a provider of health care, a health care service plan, or a contractor from releasing medical information related to a person or entity allowing a child to receive gender-affirming health care in response to a civil action, including a foreign subpoena, based on another state's law that authorizes a person to bring a civil action against a person or entity that allows a child to receive gender-affirming health care. Current law generally authorizes a California court or attorney to issue a subpoena if a foreign subpoena has been sought in this state, but prohibits the issuance of a subpoena based on another state's law that interferes with a person's right to allow a child to receive gender-affirming health care.

**xxii. SB 641 (Ashby) Department of Consumer Affairs and Department of Real Estate: states of emergency: waivers and exemptions.**

**Status:** This bill is in the Senate Appropriations Committee with recommendation to the Consent Calendar.

**Summary:** This bill This bill would authorize the Department of Real Estate and boards under the jurisdiction of the Department of Consumer Affairs to waive the application of certain provisions of the licensure requirements that the board or department is charged with enforcing for licensees and applicants impacted by a declared federal, state, or local emergency or whose home or business is located in a declared disaster area, including certain examination, fee, and continuing education requirements. The bill would exempt impacted licensees of boards from, among other requirements, the payment of duplicate license fees. The bill would require all applicants and licensees of the Department of Real Estate or boards under the Department of Consumer Affairs to provide the board or department with an email address.

Current law permit boards under the jurisdiction of the Department of Consumer Affairs to charge a fee for the processing and issuance of a duplicate copy of any certificate of licensure or other form evidencing licensure or renewal of licensure. Current law requires each person holding a license, certificate, registration, permit, or other authority to engage in a profession or occupation issued by a board under the jurisdiction of the Department of Consumer Affairs to notify the issuing board at its principal office of any change in the person's mailing address within 30 days after the change, unless the board has specified by regulations a shorter time period.

**Attachments:**

1. SB 861 (Committee on Business, Professions and Economic Development) Consumer affairs.
2. AB 45 (Bauer-Kahan) Privacy: health data: location and research.
3. AB 302 (Bauer-Kahan) Confidentiality of Medical Information Act.
4. AB 346 (Nguyen) In-home supportive services: licensed health care professional certification.
5. AB 364 (DeMaio) Personal information: maintenance.
6. AB 410 (Wilson) Bots: disclosure.

7. AB 485 (Ortega) Labor Commissioner: unsatisfied judgments: nonpayment of wages.
8. AB 489 (Bonta) Health care professions: deceptive terms or letters: artificial intelligence.
9. AB 667 (Solache) Professions and vocations: license examinations: interpreters.
10. AB 742 (Elhawary) Department of Consumer Affairs: licensing: applicants who are descendants of slaves.
11. AB 784 (Hoover) Special education: specialized deaf and hard-of-hearing services.
12. AB 970 (McKinnor) Child abuse and neglect reporting.
13. AB 1015 (Patel) Discrimination and harassment prevention training.
14. AB 1110 (Ortega) Safety rules and regulations: notice.
15. AB 1192 (Carrillo) Child abuse or neglect: reporting.
16. AB 1326 (Ahrens) Masks: individual or public health.
17. AB 1327 (Aguilar-Curry) Home improvement and home solicitation: right to cancel contracts: notice.
18. SB 81 (Arreguín) Health and care facilities: information sharing.
19. SB 402 (Valladares) Health care coverage: autism.
20. SB 446 (Hurtado) Data breaches: customer notification.
21. SB 470 (Laird) Bagley-Keene Open Meeting Act: teleconferencing.
22. SB 497 (Wiener) Legally protected health care activity.
23. SB 641 (Ashby) Department of Consumer Affairs and Department of Real Estate: states of emergency: waivers and exemptions.

# SB 861 - (I) Amends the Law

## SECTION 1.

Section 27 of the Business and Professions Code is amended to read:

## SEC. 2.

Section 144 of the Business and Professions Code is amended to read:

## SEC. 3.

Section 1602 of the Business and Professions Code is amended to read:

## SEC. 4.

Section 1603 of the Business and Professions Code is amended to read:

## SEC. 5.

*Section 1616.5 is added to the Business and Professions Code, to read:*

## SEC. 6.

Section 1901 of the Business and Professions Code is amended to read:

## SEC. 7.

Section 1903 of the Business and Professions Code is amended to read:

## SEC. 8.

Section 2125 of the Business and Professions Code is amended to read:

## SEC. 9.

Section 2532.2 of the Business and Professions Code is amended to read:

Except as required by Section 2532.25, to be eligible for licensure by the board as a speech-language pathologist or audiologist, the applicant shall possess all of the following qualifications:

(a) Possess at least a master's degree in speech-language pathology or audiology from an educational institution approved by the board or qualifications deemed equivalent by the board.

(b) (1) Submit evidence of the satisfactory completion of supervised clinical practice with individuals representative of a wide spectrum of ages and communication disorders. The board shall establish by regulation the required number of clock hours, not to exceed 375 clock hours, of supervised clinical practice necessary for the applicant.

(2) The clinical practice shall be under the direction of an educational institution approved by the board.

(c) Submit evidence of no less than 36 weeks of satisfactorily completed supervised professional full-time experience or 72 weeks of professional part-time experience obtained under the supervision of a licensed speech-language pathologist or audiologist or a speech-language pathologist or audiologist having qualifications deemed equivalent by the board. This experience shall be evaluated and approved by the board. The required professional experience shall follow completion of the requirements listed in subdivisions (a) and (b). Full time is defined as at least 36 weeks in a calendar year and a minimum of 30 hours per week. Part time is defined as a minimum of 72 weeks and a minimum of 15 hours per week.

(d) (1) Pass an examination or examinations approved by the board. The board shall determine the subject matter and scope of the examinations and may waive the examination upon evidence that the applicant has successfully completed an examination approved by the board. Written examinations may be supplemented by oral examinations as the board shall determine. An applicant who fails ~~his or her~~ *their* examination may be reexamined at a subsequent examination upon payment of the reexamination fee required by this chapter.

(2) A speech-language pathologist or audiologist who holds a license from another state or territory of the United States or who holds equivalent qualifications as determined by the board and who has completed

no less than one year of full-time continuous employment as a speech-language pathologist or audiologist within the past three years is exempt from the supervised professional experience in subdivision (c).  
(e) As applied to licensure as an audiologist, this section shall apply to applicants who graduated from an approved educational institution on or before December 31, 2007.

## **SEC. 10.**

Section 2532.3 of the Business and Professions Code is amended to read:

- (a) Upon approval of an application filed pursuant to Section 2532.1, and upon the payment of the fee prescribed by subdivision (i) of Section 2534.2, the board may issue a temporary license for a period of six months from the date of issuance to a speech-language pathologist or audiologist who holds an unrestricted license from another state or territory of the United States or who holds equivalent qualifications as determined by the board and has made application to the board for a license in this state.
- (b) A temporary license shall terminate upon notice thereof by certified mail, return receipt requested, if it is issued by mistake or if the application for permanent licensure is denied.
- (c) Upon written application, the board may reissue a temporary license to any person who has applied for a regular renewable license pursuant to Section 2532.1, and who, in the judgment of the board, has been excusably delayed in completing ~~his or her~~ *their* application or the minimum requirements for a regular license. The board may not reissue a temporary license more than twice to any one person.

## **SEC. 11.**

Section 2532.4 of the Business and Professions Code is amended to read:

- (a) The board may direct applicants to be examined for knowledge in whatever theoretical or applied fields in speech-language pathology or audiology it deems appropriate. It may examine the applicant with regard to ~~his or her~~ *their* professional skills and ~~his or her~~ *their* judgment in the utilization of speech-language pathology or audiology techniques and methods.
- (b) The examination may be written or oral or both. The examination shall be given at least once a year at the time and place and under such supervision as the board may determine. The board shall determine what shall constitute a passing grade.
- (c) The board shall keep an accurate recording of any oral examination and keep the recordings as well as any written examination as part of its records for at least two years following the date of examination.

## **SEC. 12.**

Section 2532.6 of the Business and Professions Code is amended to read:

- (a) The Legislature recognizes that the education and experience requirements of this chapter constitute only minimal requirements to assure the public of professional competence. The Legislature encourages all professionals licensed and registered by the board under this chapter to regularly engage in continuing professional development and learning that is related and relevant to the professions of speech-language pathology and audiology.
- (b) The board shall not renew any license or registration pursuant to this chapter unless the applicant certifies to the board that ~~he or she has~~ *they have* completed in the preceding two years not less than the minimum number of continuing professional development hours established by the board pursuant to subdivision (c) for the professional practice authorized by ~~his or her~~ *their* license or registration.
- (c) (1) The board shall prescribe the forms utilized for and the number of hours of required continuing professional development for persons licensed or registered under this chapter.  
(2) The board shall have the right to audit the records of any applicant to verify the completion of the continuing professional development requirements.  
(3) Applicants shall maintain records of completion of required continuing professional development coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.
- (d) The board shall establish exceptions from the continuing professional development requirements of this section for good cause as defined by the board.

- (e) (1) The continuing professional development services shall be obtained from accredited institutions of higher learning, organizations approved as continuing education providers by either the American Speech-Language Hearing Association or the American Academy of Audiology, the California Medical Association's Institute for Medical Quality Continuing Medical Education Program, or other entities or organizations approved as continuing professional development providers by the board, in its discretion.
- (2) No hours shall be credited for any course enrolled in by a licensee that has not first been approved and certified by the board, if the board has sufficient funding and staff resources to implement the approval and certification process.
- (3) The continuing professional development services offered by these entities may, but are not required to, utilize pretesting and posttesting or other evaluation techniques to measure and demonstrate improved professional learning and competency.
- (4) An accredited institution of higher learning, an organization approved as continuing education providers by either the American Speech-Language Hearing Association or the American Academy of Audiology, and the California Medical Association's Institute for Medical Quality Continuing Education Program shall be exempt from any application or registration fees that the board may charge for continuing education providers.
- (5) Unless a course offered by entities listed in paragraph (4) meets the requirements established by the board, the course may not be credited towards the continuing professional development requirements for license renewal.
- (6) The licensee shall be responsible for obtaining the required course completion documents for courses offered by entities specified in paragraph (1).
- (f) The board, by regulation, shall fund the administration of this section through professional development services provider and licensing fees to be deposited in the Speech-Language Pathology and Audiology ~~Board~~ and Hearing Aid Dispensers Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section.
- (g) The continuing professional development requirements adopted by the board shall comply with any guidelines for mandatory continuing education established by the Department of Consumer Affairs.

### **SEC. 13.**

Section 2532.7 of the Business and Professions Code is amended to read:

- (a) Upon approval of an application filed pursuant to Section 2532.1, and upon payment of the fee prescribed by Section 2534.2, the board may issue a required professional experience (RPE) temporary license for a period to be determined by the board to an applicant who is obtaining the required professional experience specified in subdivision (c) of Section 2532.2 or paragraph (2) of subdivision (b) of Section 2532.25.
- (b) Effective July 1, 2003, no person shall obtain the required professional experience for licensure in either an exempt or nonexempt setting, as defined in Section 2530.5, unless ~~he or she is~~ *they are* licensed in accordance with this section or is completing the final clinical externship of a board-approved audiology doctoral training program in accordance with paragraph (2) of subdivision (b) of Section 2532.25 in another state.
- (c) A person who obtains an RPE temporary license outside the State of California shall not be required to hold a temporary license issued pursuant to subdivision (a) if the person is completing the final clinical externship of an audiology doctoral training program in accordance with paragraph (2) of subdivision (b) of Section 2532.25.
- (d) Any experience obtained in violation of this act shall not be approved by the board.
- (e) An RPE temporary license shall terminate upon notice thereof by certified mail, return receipt requested, if it is issued by mistake or if the application for permanent licensure is denied.
- (f) Upon written application, the board may reissue an RPE temporary license for a period to be determined by the board to an applicant who is obtaining the required professional experience specified in subdivision (c) of Section 2532.2 or paragraph (2) of subdivision (b) of Section 2532.25.

### **SEC. 14.**

Section 2536 of the Business and Professions Code is amended to read:

A speech-language pathology corporation or an audiology corporation is a corporation which is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are speech-language pathologists or audiologists are in compliance with the Moscone-Knox Professional Corporation Act, this article, and all other statutes and regulations now or hereafter enacted or adopted pertaining to the corporation and the conduct of its affairs.

With respect to a speech-language pathology corporation or an audiology corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Speech-Language Pathology and Audiology *and Hearing Aid Dispensers* Board.

**SEC. 15.**

Section 6584 of the Business and Professions Code is amended to read:

**SEC. 16.**

Section 7076.5 of the Business and Professions Code is amended to read:

**SEC. 17.**

Section 7137 of the Business and Professions Code is amended to read:

**SEC. 18.**

Section 7152 of the Business and Professions Code is amended to read:

**SEC. 19.**

Section 7524 of the Business and Professions Code is amended to read:

**SEC. 20.**

Section 8027 of the Business and Professions Code is amended to read:

**SEC. 21.**

Section 9889.1 of the Business and Professions Code is amended to read:

**SEC. 22.**

Section 9889.2 of the Business and Professions Code is amended to read:

**SEC. 23.**

Section 9889.9 of the Business and Professions Code is amended to read:

**SEC. 24.**

Section 12107 of the Business and Professions Code is amended to read:

**SEC. 25.**

Section 12211 of the Business and Professions Code is amended to read:

**SEC. 26.**

Section 12500.8 of the Business and Professions Code is amended to read:

**SEC. 27.**

Section 12609 of the Business and Professions Code is amended to read:

**SEC. 28.**

Section 13404.5 of the Business and Professions Code is amended to read:

**SEC. 29.**

Section 13711 of the Business and Professions Code is amended to read:

**SEC. 30.**

Section 19094 of the Business and Professions Code is amended to read:

**SEC. 31.**

Section 44831 of the Education Code is amended to read:

The governing board of a school district shall employ persons in public school service requiring certification qualifications as provided in this code, except that the governing board or a county office of education may contract with or employ an individual who holds a license issued by the Speech-Language Pathology and Audiology *and Hearing Aid Dispensers* Board and has earned a ~~masters~~ *master's* degree in communication disorders to provide speech and language services if that individual meets the requirements of Section 44332.6 before employment or execution of the contract.

**SEC. 32.**

Section 94834 of the Education Code is amended to read:

**SEC. 33.**

Section 94866 of the Education Code is amended to read:

**SEC. 34.**

Section 94880.1 of the Education Code is repealed.

**SEC. 35.**

Section 94897 of the Education Code is amended to read:

**SEC. 36.**

Section 94900 of the Education Code is amended to read:

**SEC. 37.**

Section 94902 of the Education Code is amended to read:

**SEC. 38.**

Section 94909 of the Education Code is amended to read:

**SEC. 39.**

Section 94910 of the Education Code is amended to read:

**SEC. 40.**

Section 94929.9 of the Education Code is repealed.

**SEC. 41.**

Section 94949 of the Education Code is repealed.

**SEC. 42.**

Section 14132.55 of the Welfare and Institutions Code is amended to read:

For the purposes of reimbursement under the Medi-Cal program, a speech pathologist or audiologist shall be licensed by the Speech-Language Pathology and Audiology ~~Examining Committee of the Medical Board of California~~ *and Hearing Aid Dispensers Board* or similarly licensed by a comparable agency in the state in which ~~he or she practices~~ *they practice*. Licensed speech-language pathologists or licensed

audiologists are authorized to utilize and shall be reimbursed for the services of those personnel in the process of completing requirements under the provisions of subdivision (c) of Section 2532.2 of the Business and Professions Code.



# AB 45 - (A) Amends the Law

## SECTION 1.

*The heading of Title 1.81.49 (commencing with Section 1798.99.90) of Part 4 of Division 3 of the Civil Code is amended to read:*

### **TITLE 1.81.49. Health and Location Data Privacy**

## **SEC. 3. SEC. 2.**

Section 1798.99.90 of the Civil Code is amended to read:

~~(a) A person or business shall not collect, use, disclose, or retain the personal information of a person who is physically located at, or within a precise geolocation of, a family planning center, except as specified in subdivision (c).~~

~~(b)~~ For purposes of this ~~section, title~~, the following definitions apply:

~~(1)~~ (a) ~~“Business” means the same as defined in subdivision (c) of Section 1798.140. “Collect,” “collected,” or “collection” means buying, renting, gathering, obtaining, receiving, or accessing any personal information pertaining to a natural person by any means. This includes receiving information from the natural person, either actively or passively, or by observing the natural person’s behavior.~~

~~(2) “Collect” means the same as defined in subdivision (f) of Section 1798.140.~~

~~(3)~~ (b) “Family planning center” means a ~~business facility~~ categorized as a family planning center by the North American Industry Classification System adopted by the United States Census Bureau, including, but not limited to, a clinic or center that provides reproductive health care services as defined in Section ~~1798.300 of the Civil Code.~~ 1798.300.

(c) “Geofence” means any technology that enables spatial or location detection to establish a virtual boundary around, and detect an individual’s presence within, a “precise geolocation” as defined in subdivision (w) of Section 1798.140.

(d) “Health care services” means any service provided to a natural person of a medical, surgical, psychiatric, therapeutic, diagnostic, mental health, behavioral health, preventative, rehabilitative, supportive, consultative, referral, or prescribing nature.

(e) “Person” means a natural person, association, proprietorship, corporation, trust, foundation, partnership, or any other organization or group of people acting in concert.

~~(4)~~ (f) “Personal information” has the same definition as that term is defined in subdivision (v) of Section 1798.140, except as applied to all *natural* persons and not limited to consumers and households, as those terms are defined in subdivisions (i) and (q), respectively, of that section.

~~(5)~~ (g) “Precise geolocation” means a geographic area that is equal to or less than the area of a circle with a radius of 1,850 feet as derived from a device that is used or intended to be used to locate a person. *If the geographic scope of the term “precise geolocation” as defined in Section 1798.140 is expanded beyond 1,850 feet, then that larger scope shall apply to this definition of precise geolocation.*

~~(6) “Sell” means the same as defined in subdivision (ad) of Section 1798.140.~~

~~(7) “Share” means the same as defined in subdivision (ah) of Section 1798.140.~~

~~(c) A person or business shall not collect, use, disclose, or retain the personal information of a person who is physically located at, or within a precise geolocation of, a family planning center, except only as necessary to perform the services or provide the goods requested by the person. A person or business shall not sell or share this personal information.~~

~~(d) (h) (1) “Research” – An aggrieved person or entity, including a family planning center, may institute and prosecute a civil action against any person or business who violates this section for injunctive and monetary relief and attorney’s fees within three years of discovery of the violation. means systematic investigation, including research development, testing, and evaluation, that has as its primary purpose the development of, or contribution to, generalizable knowledge.~~

~~(2) (i) If the court finds for the petitioner in an action authorized by paragraph (1), recovery shall be in the amount of three times the amount of actual damages and any other expenses, costs, or reasonable attorney’s fees incurred in connection with the litigation. “Sell,” “selling,” “sale,” or “sold” means selling, renting, releasing, disclosing, disseminating, making available, transferring, or otherwise communicating~~

orally, in writing, or by electronic or other means, a natural person's personal information by another person to a third party for monetary or other valuable consideration.

~~(e) (j) This section does not apply to a provider of health care, a health care service plan, or contractor, as those terms are defined in Section 56.05. "Share," "shared," or "sharing" means sharing, renting, releasing, disclosing, disseminating, making available, transferring, or otherwise communicating orally, in writing, or by electronic or other means, a natural person's personal information by another person to a third party, whether or not for monetary or other valuable consideration.~~

### **SEC. 3.**

Section 1798.99.91 is added to the Civil Code, immediately following Section 1798.99.90, to read:

(a) It shall be unlawful to collect, use, disclose, sell, share, or retain the personal information of a natural person who is physically located at, or within a precise geolocation of, a family planning center, except as specified in subdivision (b).

(b) Notwithstanding subdivision (a), it is permissible to collect or use the personal information of a natural person who is physically located at, or within a precise geolocation of, a family planning center, but only as necessary to perform the services or provide the goods requested by the natural person. All other prohibitions under subdivision (a) shall continue to apply.

(c) (1) An aggrieved person or entity, including a family planning center, may institute and prosecute a civil action against any person who violates this section for injunctive and monetary relief and attorney's fees within three years of discovery of the violation.

(2) If the court finds for the petitioner in an action authorized by paragraph (1), recovery shall be in the amount of three times the amount of actual damages and any other expenses, costs, or reasonable attorney's fees incurred in connection with the litigation.

(d) This section does not apply to a provider of health care, a health care service plan, or contractor, as those terms are defined in Section 56.05.

### **SEC. 4.**

Section 1798.99.92 is added to the Civil Code, immediately following Section 1798.99.91, to read:

(a) Except as provided in subdivision (f), it shall be unlawful to geofence an entity that provides in-person health care services in California for any of the following purposes:

(1) To identify or track a person seeking, receiving, or providing health care services.

(2) To collect personal information from a person seeking, receiving, or providing health care services.

(3) To send notifications to a person related to their personal information or health care services.

(4) To send advertisements to a person related to the person's personal information or health care services.

(b) It shall be unlawful to sell personal information to, or share personal information with, a third party for the use of such information to violate subdivision (a). A statement signed under penalty of perjury, pursuant to Section 2015.5 of the Code of Civil Procedure, by a natural person authorized to enter into agreements on behalf of the third party that the personal information will not be used for these purposes shall be prima facie evidence that the personal information was not sold or shared in violation of this subdivision.

(c) Except as provided in subdivision (f), it shall be unlawful to use personal information obtained in violation of subdivision (a) or (b).

(d) (1) Any person that violates this section shall be subject to an injunction and liable for a civil penalty of twenty-five thousand dollars (\$25,000) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General. The court may consider the good faith cooperation of the entity or person in determining the amount of the civil penalty.

(2) Any civil penalty recovered by an action brought by the Attorney General for a violation of this section, and the proceeds of any settlement of any said action, shall be deposited in the California Reproductive Justice and Freedom Fund established pursuant to Section 140 of the Health and Safety Code.

(e) This section shall be implemented consistent with state and federal law.

(f) (1) (A) This section does not prohibit any person that owns, operates, manages, or otherwise provides services to an in-person health care entity from geofencing the entity's own location to provide necessary

health care services, including the use of location-based alarm devices to monitor newborns and memory-impaired individuals.

(B) This section does not prohibit any person that provides reproductive health care services, as defined in Section 1798.300, from utilizing geofencing for the purpose of providing security services to protect patients, staff, or property.

(2) Nothing in this section shall exempt any person from complying with any of the following:

(A) A lawfully executed search warrant.

(B) A lawful subpoena issued pursuant to existing California law.

(C) Law enforcement if law enforcement, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires access to such geofencing data. For purposes of this subparagraph, accessing, procuring, or searching for services regarding contraception, pregnancy care, and perinatal care, including, but not limited to, abortion services, shall not constitute being at risk or danger of death or serious physical injury.

(3) Nothing in this section abrogates or limits the requirements of the Electronic Communications Privacy Act (Chapter 3.6 (commencing with Section 1546) of Title 12 of Part 2 of the Penal Code).

(4) Nothing in this section shall apply to geofencing activities conducted solely for research purposes by an investigator within an institution that holds an assurance with the federal Department of Health and Human Services pursuant to Part 46 (commencing with Section 46.101) of Title 45 of the Code of Federal Regulations and who obtains informed consent in the method and manner required by those regulations.

## **SEC. 5.**

Section 1798.99.93 is added to the Civil Code, immediately following Section 1798.99.92, to read:

(a) Research records, in a personally identifying form, developed or acquired by a person in the course of conducting research relating to anyone seeking or obtaining health care services, or relating to personal information, shall be subject to the restrictions on release set forth in this section.

(b) Research records, in a personally identifying form, developed or acquired by a person in the course of conducting research relating to anyone seeking or obtaining health care services, or relating to personal information, shall not be released in response to a subpoena or request if that subpoena or request is based on either another state's laws that interfere with a person's rights under the Reproductive Privacy Act (Article 2.5 (commencing with Section 123460) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code) or a foreign penal civil action, as defined in Section 2029.200 of the Code of Civil Procedure.

(c) Research records, in a personally identifying form, developed or acquired by a person in the course of conducting research relating to anyone seeking or obtaining health care services, or relating to personal information, shall not be released to law enforcement for either of the following purposes, unless that release is pursuant to a subpoena not otherwise prohibited by subdivision (b):

(1) Enforcement of another state's law that interferes with a person's rights under the Reproductive Privacy Act (Article 2.5 (commencing with Section 123460) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code).

(2) Enforcement of a foreign penal civil action, as defined in Section 2029.200 of the Code of Civil Procedure.

## **SEC. 6.**

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

# AB 302 - (A) Amends the Law

## SECTION 1.

Section 56.10 of the Civil Code is amended to read:

(a) A provider of health care, health care service plan, or contractor shall not disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization, except as provided in subdivision (b) or (c).

(b) A provider of health care, a health care service plan, or a contractor shall disclose medical information if the disclosure is compelled by any of the following:

(1) *(A) A court ~~order~~ order issued by a California state court, including a court order issued by a California state court pursuant to Section 2029.300 of the Code of Civil Procedure relating to a foreign subpoena.*

*(B) A provider of health care, health care service plan, or contractor shall not comply with a court order that constitutes a foreign subpoena, absent a court order issued pursuant to Section 2029.300 of the Code of Civil Procedure.*

(2) A board, commission, or administrative agency for purposes of adjudication pursuant to its lawful authority.

(3) A party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum, notice to appear served pursuant to Section 1987 of the Code of Civil Procedure, or any provision authorizing discovery in a proceeding before a court or administrative agency.

(4) A board, commission, or administrative agency pursuant to an investigative subpoena issued under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(5) An arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum issued under Section 1282.6 of the Code of Civil Procedure, or another provision authorizing discovery in a proceeding before an arbitrator or arbitration panel.

(6) A search warrant lawfully issued to a governmental law enforcement ~~agency~~ *agency, including a warrant from another state based on another state's law so long as that law does not interfere with California law, including, but not limited to, the Reproductive Privacy Act (Article 2.5 (commencing with Section 123460) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code), and execution of the search warrant would not constitute a violation of Section 13778.2 of the Penal Code.*

(7) The patient or the patient's representative pursuant to Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(8) A medical examiner, forensic pathologist, or coroner, when requested in the course of an investigation by a medical examiner, forensic pathologist, or coroner's office for the purpose of identifying the decedent or locating next of kin, or when investigating deaths that may involve public health concerns, organ or tissue donation, child abuse, elder abuse, suicides, poisonings, accidents, sudden infant deaths, suspicious deaths, unknown deaths, or criminal deaths, or upon notification of, or investigation of, imminent deaths that may involve organ or tissue donation pursuant to Section 7151.15 of the Health and Safety Code, or when otherwise authorized by the decedent's representative. Medical information requested by a medical examiner, forensic pathologist, or coroner under this paragraph shall be limited to information regarding the patient who is the decedent and who is the subject of the investigation or who is the prospective donor and shall be disclosed to a medical examiner, forensic pathologist, or coroner without delay upon request. A medical examiner, forensic pathologist, or coroner shall not disclose the information contained in the medical record obtained pursuant to this paragraph to a third party without a court order or authorization pursuant to paragraph (4) of subdivision (c) of Section 56.11.

(9) When otherwise specifically required by law.

(c) A provider of health care or a health care service plan may disclose medical information as follows:

(1) The information may be disclosed to providers of health care, health care service plans, contractors, or other health care professionals or facilities for purposes of diagnosis or treatment of the patient. This includes, in an emergency situation, the communication of patient information by radio transmission or other means between emergency medical personnel at the scene of an emergency, or in an emergency

medical transport vehicle, and emergency medical personnel at a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(2) The information may be disclosed to an insurer, employer, health care service plan, hospital service plan, employee benefit plan, governmental authority, contractor, or other person or entity responsible for paying for health care services rendered to the patient, to the extent necessary to allow responsibility for payment to be determined and payment to be made. If (A) the patient is, by reason of a comatose or other disabling medical condition, unable to consent to the disclosure of medical information and (B) no other arrangements have been made to pay for the health care services being rendered to the patient, the information may be disclosed to a governmental authority to the extent necessary to determine the patient's eligibility for, and to obtain, payment under a governmental program for health care services provided to the patient. The information may also be disclosed to another provider of health care or health care service plan as necessary to assist the other provider or health care service plan in obtaining payment for health care services rendered by that provider of health care or health care service plan to the patient.

(3) The information may be disclosed to a person or entity that provides billing, claims management, medical data processing, or other administrative services for providers of health care or health care service plans or for any of the persons or entities specified in paragraph (2). However, that disclosed information shall not be further disclosed by the recipient in a way that would violate this part.

(4) The information may be disclosed to organized committees and agents of professional societies or of medical staffs of licensed hospitals, licensed health care service plans, professional standards review organizations, independent medical review organizations and their selected reviewers, utilization and quality control peer review organizations as established by Congress in Public Law 97-248 in 1982, contractors, or persons or organizations insuring, responsible for, or defending professional liability that a provider may incur, if the committees, agents, health care service plans, organizations, reviewers, contractors, or persons are engaged in reviewing the competence or qualifications of health care professionals or in reviewing health care services with respect to medical necessity, level of care, quality of care, or justification of charges.

(5) The information in the possession of a provider of health care or a health care service plan may be reviewed by a private or public body responsible for licensing or accrediting the provider of health care or a health care service plan. However, no patient-identifying medical information may be removed from the premises except as expressly permitted or required elsewhere by law, nor shall that information be further disclosed by the recipient in a way that would violate this part.

(6) The information may be disclosed to a medical examiner, forensic pathologist, or county coroner in the course of an investigation by a medical examiner, forensic pathologist, or coroner's office when requested for all purposes not included in paragraph (8) of subdivision (b). A medical examiner, forensic pathologist, or coroner shall not disclose the information contained in the medical record obtained pursuant to this paragraph to a third party without a court order or authorization pursuant to paragraph (4) of subdivision (c) of Section 56.11.

(7) The information may be disclosed to public agencies, clinical investigators, including investigators conducting epidemiologic studies, health care research organizations, and accredited public or private nonprofit educational or health care institutions for bona fide research purposes. However, no information so disclosed shall be further disclosed by the recipient in a way that would disclose the identity of a patient or violate this part.

(8) A provider of health care or health care service plan that has created medical information as a result of employment-related health care services to an employee conducted at the specific prior written request and expense of the employer may disclose to the employee's employer that part of the information that:

(A) Is relevant in a lawsuit, arbitration, grievance, or other claim or challenge to which the employer and the employee are parties and in which the patient has placed in issue the patient's medical history, mental or physical condition, or treatment, provided that information may only be used or disclosed in connection with that proceeding.

(B) Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit the patient's fitness to perform the patient's present employment, provided that no statement of medical cause is included in the information disclosed.

(9) Unless the provider of health care or a health care service plan is notified in writing of an agreement by the sponsor, insurer, or administrator to the contrary, the information may be disclosed to a sponsor, insurer, or administrator of a group or individual insured or uninsured plan or policy that the patient seeks

coverage by or benefits from, if the information was created by the provider of health care or health care service plan as the result of services conducted at the specific prior written request and expense of the sponsor, insurer, or administrator for the purpose of evaluating the application for coverage or benefits.

(10) The information may be disclosed to a health care service plan by providers of health care that contract with the health care service plan and may be transferred between providers of health care that contract with the health care service plan, for the purpose of administering the health care service plan. Medical information shall not otherwise be disclosed by a health care service plan except in accordance with this part.

(11) This part does not prevent the disclosure by a provider of health care or a health care service plan to an insurance institution, agent, or support organization, subject to Article 6.6 (commencing with Section 791) of Chapter 1 of Part 2 of Division 1 of the Insurance Code, of medical information if the insurance institution, agent, or support organization has complied with all of the requirements for obtaining the information pursuant to Article 6.6 (commencing with Section 791) of Chapter 1 of Part 2 of Division 1 of the Insurance Code.

(12) The information relevant to the patient's condition, care, and treatment provided may be disclosed to a probate court investigator in the course of an investigation required or authorized in a conservatorship proceeding under the Guardianship-Conservatorship Law as defined in Section 1400 of the Probate Code, or to a probate court investigator, probation officer, or domestic relations investigator engaged in determining the need for an initial guardianship or continuation of an existing guardianship.

(13) The information may be disclosed to an organ procurement organization or a tissue bank processing the tissue of a decedent for transplantation into the body of another person, but only with respect to the donating decedent, for the purpose of aiding the transplant. For the purpose of this paragraph, "tissue bank" and "tissue" have the same meanings as defined in Section 1635 of the Health and Safety Code.

(14) The information may be disclosed when the disclosure is otherwise specifically authorized by law, including, but not limited to, the voluntary reporting, either directly or indirectly, to the federal Food and Drug Administration of adverse events related to drug products or medical device problems, or to disclosures made pursuant to subdivisions (b) and (c) of Section 11167 of the Penal Code by a person making a report pursuant to Sections 11165.9 and 11166 of the Penal Code, provided that those disclosures concern a report made by that person.

(15) Basic information, including the patient's name, city of residence, age, sex, and general condition, may be disclosed to a state-recognized or federally recognized disaster relief organization for the purpose of responding to disaster welfare inquiries.

(16) The information may be disclosed to a third party for purposes of encoding, encrypting, or otherwise anonymizing data. However, no information so disclosed shall be further disclosed by the recipient in a way that would violate this part, including the unauthorized manipulation of coded or encrypted medical information that reveals individually identifiable medical information.

(17) For purposes of disease management programs and services as defined in Section 1399.901 of the Health and Safety Code, information may be disclosed as follows: (A) to an entity contracting with a health care service plan or the health care service plan's contractors to monitor or administer care of enrollees for a covered benefit, if the disease management services and care are authorized by a treating physician, or (B) to a disease management organization, as defined in Section 1399.900 of the Health and Safety Code, that complies fully with the physician authorization requirements of Section 1399.902 of the Health and Safety Code, if the health care service plan or its contractor provides or has provided a description of the disease management services to a treating physician or to the health care service plan's or contractor's network of physicians. This paragraph does not require physician authorization for the care or treatment of the adherents of a well-recognized church or religious denomination who depend solely upon prayer or spiritual means for healing in the practice of the religion of that church or denomination.

(18) The information may be disclosed, as permitted by state and federal law or regulation, to a local health department for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events, including, but not limited to, birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions, as authorized or required by state or federal law or regulation.

(19) The information may be disclosed, consistent with applicable law and standards of ethical conduct, by a psychotherapist, as defined in Section 1010 of the Evidence Code, if the psychotherapist, in good faith, believes the disclosure is necessary to prevent or lessen a serious and imminent threat to the health



or safety of a reasonably foreseeable victim or victims, and the disclosure is made to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat.

(20) The information may be disclosed as described in Section 56.103.

(21) (A) The information may be disclosed to an employee welfare benefit plan, as defined under Section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1002(1)), which is formed under Section 302(c)(5) of the Taft-Hartley Act (29 U.S.C. Sec. 186(c)(5)), to the extent that the employee welfare benefit plan provides medical care, and may also be disclosed to an entity contracting with the employee welfare benefit plan for billing, claims management, medical data processing, or other administrative services related to the provision of medical care to persons enrolled in the employee welfare benefit plan for health care coverage, if all of the following conditions are met:

(i) The disclosure is for the purpose of determining eligibility, coordinating benefits, or allowing the employee welfare benefit plan or the contracting entity to advocate on the behalf of a patient or enrollee with a provider, a health care service plan, or a state or federal regulatory agency.

(ii) The request for the information is accompanied by a written authorization for the release of the information submitted in a manner consistent with subdivision (a) and Section 56.11.

(iii) The disclosure is authorized by and made in a manner consistent with the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191).

(iv) Any information disclosed is not further used or disclosed by the recipient in any way that would directly or indirectly violate this part or the restrictions imposed by Part 164 of Title 45 of the Code of Federal Regulations, including the manipulation of the information in any way that might reveal individually identifiable medical information.

(B) For purposes of this paragraph, Section 1374.8 of the Health and Safety Code shall not apply.

(22) Information may be disclosed pursuant to subdivision (a) of Section 15633.5 of the Welfare and Institutions Code by a person required to make a report pursuant to Section 15630 of the Welfare and Institutions Code, provided that the disclosure under subdivision (a) of Section 15633.5 concerns a report made by that person. Covered entities, as they are defined in Section 160.103 of Title 45 of the Code of Federal Regulations, shall comply with the requirements of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy rule pursuant to subsection (c) of Section 164.512 of Title 45 of the Code of Federal Regulations if the disclosure is not for the purpose of public health surveillance, investigation, intervention, or reporting an injury or death.

(23) The information may be disclosed to a school-linked services coordinator pursuant to a written authorization between the health provider and the patient or client that complies with the federal Health Insurance Portability and Accountability Act of 1996.

(24) Mental health records, as defined in subdivision (c) of Section 5073 of the Penal Code, may be disclosed by a county correctional facility, county medical facility, state correctional facility, or state hospital, as required by Section 5073 of the Penal Code.

(d) ~~Except to the extent expressly authorized by a patient, enrollee, or subscriber, or as provided by subdivisions (b) and (c), a~~ A provider of health care, health care service plan, contractor, or corporation and its subsidiaries and affiliates shall not intentionally ~~share, sell, use for marketing, or otherwise sell medical information or~~ use medical information for ~~a purpose not necessary to provide health care services to the patient; marketing.~~

(e) Except to the extent expressly authorized by a ~~patient or enrollee or~~ *patient, enrollee, or* subscriber or as provided by subdivisions (b) and (c), a contractor or corporation and its subsidiaries and affiliates shall not further disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan or insurer or self-insured employer received under this section to a person or entity that is not engaged in providing direct health care services to the patient or the patient's provider of health care or health care service plan or insurer or self-insured employer.

(f) For purposes of this section, the following definitions apply:

(1) *"Court order" means a document, however denominated, including a subpoena, issued under authority of a court of record requiring a person to do any of the following:*

(A) *Attend and give testimony at a deposition.*

(B) *Produce and permit inspection, copying, testing, or sampling of designated books, documents, records, electronically stored information, or tangible things in the possession, custody, or control of the person.*

(C) *Permit inspection of premises under the control of the person.*

(2) *"Foreign subpoena" means both of the following:*

*(A) A foreign subpoena, as defined in Section 2029.200 of the Code of Civil Procedure.*

*(B) A court order issued under authority of a court of record of a foreign jurisdiction.*

~~(+)~~ (3) "Medical examiner, forensic pathologist, or coroner" means a coroner or deputy coroner, as described in subdivision (c) of Section 830.35 of the Penal Code, or a licensed physician who currently performs official autopsies on behalf of a county coroner's office or a medical examiner's office, whether as a government employee or under contract to that office.

~~(+)~~ (4) "School-linked services coordinator" means an individual located on a school campus or under contract by a county behavioral health provider agency for the treatment and health care operations and referrals of students and their families that holds any of the following:

(A) A services credential with a specialization in pupil personnel services, as described in Section 44266 of the Education Code.

(B) A services credential with a specialization in health authorizing service as a school nurse, as described in Section 44877 of the Education Code.

(C) A license to engage in the practice of marriage and family therapy issued pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(D) A license to engage in the practice of educational psychology issued pursuant to Chapter 13.5 (commencing with Section 4989.10) of Division 2 of the Business and Professions Code.

(E) A license to engage in the practice of professional clinical counseling issued pursuant to Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code.

## **SEC. 2.**

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



# AB 346 - (I) Amends the Law

## SECTION 1.

Section 12300.1 of the Welfare and Institutions Code is amended to read:

(a) As used in Section 12300 and in this article, "supportive services" include those necessary paramedical services that are ordered by a licensed health care professional who is lawfully authorized to do so, which persons could provide for ~~themselves themselves~~, but for their functional limitations. Paramedical services include the administration of medications, puncturing the skin or inserting a medical device into a body orifice, activities requiring sterile procedures, or other activities requiring judgment based on training given by a licensed health care professional. These necessary services shall be rendered by a provider under the direction of a licensed health care professional, subject to the informed consent of the recipient obtained as a part of the order for service. Any and all references to Section 12300 in any statute heretofore or hereafter enacted shall be deemed to be references to this section. All statutory references to the supportive services specified in Section 12300 shall be deemed to include paramedical services.

(b) *For purposes of this section, "licensed health care professional" has the same definition as "health care practitioner," as defined in Section 680 of the Business and Professions Code.*

## SEC. 2.

Section 12309.1 of the Welfare and Institutions Code is amended to read:

(a) (1) As a condition of receiving services under this article, *including, but not limited to, paramedical services*, or Section 14132.95 or 14132.952, an applicant for or recipient of services shall obtain a certification from a licensed health care professional, including, but not limited to, a physician, physician assistant, regional center clinician or clinician supervisor, occupational therapist, physical therapist, psychiatrist, psychologist, optometrist, ophthalmologist, or public health nurse, *or a nurse or nurse practitioner who is working under the direction of the licensed health care professional*, declaring that the applicant or recipient is unable to perform some activities of daily living independently, and that without services to assist the applicant or recipient with activities of daily living, the applicant or recipient is at risk of placement in out-of-home care.

~~(1) (2) For purposes of this section, a licensed health care professional means an individual licensed in California by the appropriate California regulatory agency, acting within the scope of their license or certificate as defined in~~ *"licensed health care professional" has the same definition as "health care practitioner," as defined in Section 680 of the Business and Professions Code.*

~~(2) (3)~~ Except as provided in subparagraph (A) or (B), or subdivision (c), the certification shall be received prior to service authorization, and services shall not be authorized in the absence of the certification.

(A) Services may be authorized prior to receipt of the certification when the services have been requested on behalf of an individual being discharged from a hospital or nursing home and services are needed to enable the individual to return safely to their home or into the community.

(B) Services may be authorized temporarily pending receipt of the certification when the county determines that there is a risk of out-of-home placement.

~~(3) (4)~~ The county shall consider the certification as one indicator of the need for in-home supportive services, but the certification shall not be the sole determining factor.

~~(4) (5)~~ The *licensed* health care professional's certification shall include, at a minimum, both of the following:

(A) A statement by the ~~professional, as defined in subdivision (a),~~ *licensed health care professional* that the individual is unable to independently perform one or more activities of daily living, and that one or more of the services available under the IHSS program is recommended for the applicant or recipient, in order to prevent the need for out-of-home care.

(B) A description of any condition or functional limitation that has resulted in, or contributed to, the applicant's or recipient's need for assistance.

(b) The department, in consultation with the State Department of Health Care Services and with stakeholders, including, but not limited to, representatives of program recipients, providers, and counties, shall develop a standard certification form for use in all counties that includes, but is not limited to, all of the conditions in paragraph ~~(4)~~ (5) of subdivision (a). The form shall include a description of the In-Home Supportive Services program and the services the program can provide when authorized after a social worker's assessment of eligibility. The form shall not, however, require *licensed* health care professionals to certify the applicant's or recipient's need for each individual service.

(c) The department, in consultation with the State Department of Health Care Services and stakeholders, as ~~defined~~ *described* in subdivision (b), shall identify alternative documentation that shall be accepted by counties to meet the requirements of this section, including, but not limited to, hospital or nursing facility discharge plans, minimum data set forms, individual program plans, or other documentation that contains the necessary information, consistent with the requirements specified in subdivision (a).

(d) The department shall develop a letter for use by counties to inform recipients of the requirements of subdivision (a). The letter shall be understandable to the recipient, and shall be translated into all languages spoken by a substantial number of the public served by the In-Home Supportive Services program, in accordance with Section 7295.2 of the Government Code.

(e) This section does not apply to a recipient who is receiving services in accordance with this article or Section 14132.95 or 14132.952 on the operative date of this section until the date of the recipient's first reassessment following the operative date of this section, as provided in subdivision (g).

(1) The recipient shall be notified of the certification requirement before or at the time of the reassessment, and shall submit the certification within 45 days following the reassessment in order to continue to be authorized for receipt of services.

(2) A county may extend the 45-day period for a recipient to submit the medical certification on a case-by-case basis, if the county determines that good cause for the delay exists.

(f) A licensed health care professional shall not charge a fee for the completion of the certification form.

(g) This section shall become operative on the first day of the first month following 90 days after the effective date of Chapter 8 of the Statutes of 2011, or July 1, 2011, whichever is later.

(h) The State Department of Health Care Services shall provide notice to all Medi-Cal managed care plans, directing the plans to assess all Medi-Cal recipients applying for or receiving in-home supportive services, in order to make the certifications required by this section.

(i) If the Director of Health Care Services determines that a Medicaid State Plan amendment is necessary to implement subdivision (b) of Section 14132.95, this section shall not be implemented until federal approval is received.

# AB 364 - (A) Amends the Law

## SECTION 1.

*This act shall be known, and may be cited, as the Stop Foreign Governments from Accessing Californians' Sensitive Personal Information Act.*

## SECTION 1. SEC. 2.

Section 1798.100 of the Civil Code is amended to read:

### General Duties of Businesses that Collect Personal Information

(a) A business that controls the collection of a consumer's personal information shall, at or before the point of collection, inform ~~consumers of~~ *a consumer of all of* the following:

(1) The categories of personal information to be ~~collected and~~ *collected*, the purposes for which the categories of personal information are collected or ~~used~~ *used*, and whether that *personal* information is sold or shared. A business shall not collect additional categories of personal information or use personal information collected for additional purposes that are incompatible with the disclosed purpose for which the personal information was collected without providing the consumer with notice consistent with this section.

(2) If the business collects sensitive personal information, the categories of sensitive personal information to be collected and the purposes for which the categories of sensitive personal information are collected or used, and whether that information is sold or shared. A business shall not collect additional categories of sensitive personal information or use sensitive personal information collected for additional purposes that are incompatible with the disclosed purpose for which the sensitive personal information was collected without providing the consumer with notice consistent with this section.

(3) The length of time the business intends to retain each category of personal information, including sensitive personal information, or if that is not possible, the criteria used to determine that period provided that a business shall not retain a consumer's personal information or sensitive personal information for each disclosed purpose for which the personal information was collected for longer than is reasonably necessary for that disclosed purpose.

*(4) If the business intends to maintain the consumer's personal information outside of the United States.*

(b) A business that, acting as a third party, controls the collection of personal information about a consumer may satisfy its obligation under subdivision (a) by providing the required information prominently and conspicuously on the ~~homepage~~ *home page* of its internet website. In addition, if a business acting as a third party controls the collection of personal information about a consumer on its premises, including in a vehicle, then the business shall, at or before the point of collection, inform consumers as to the categories of personal information to be collected and the purposes for which the categories of personal information are used, and whether that personal information is sold, in a clear and conspicuous manner at the location.

(c) A business' collection, use, retention, and sharing of a consumer's personal information shall be reasonably necessary and proportionate to achieve the purposes for which the personal information was collected or processed, or for another disclosed purpose that is compatible with the context in which the personal information was collected, and not further processed in a manner that is incompatible with those purposes.

(d) A business that collects a consumer's personal information and that sells that personal information to, or shares it with, a third party or that discloses it to a service provider or contractor for a business purpose shall enter into an agreement with the third party, service provider, or contractor, that:

(1) Specifies that the personal information is sold or disclosed by the business only for limited and specified purposes.

(2) Obligates the third party, service provider, or contractor to comply with applicable obligations under this title and obligate those persons to provide the same level of privacy protection as is required by this title.

(3) Grants the business rights to take reasonable and appropriate steps to help ensure that the third party, service provider, or contractor uses the personal information transferred in a manner consistent with the business' obligations under this title.

- (4) Requires the third party, service provider, or contractor to notify the business if it makes a determination that it can no longer meet its obligations under this title.
- (5) Grants the business the right, upon notice, including under paragraph (4), to take reasonable and appropriate steps to stop and remediate unauthorized use of personal information.
- (e) A business that collects a consumer's personal information shall implement reasonable security procedures and practices appropriate to the nature of the personal information to protect the personal information from unauthorized or illegal access, destruction, use, modification, or disclosure in accordance with Section 1798.81.5.
- (f) Nothing in this section shall require a business to disclose trade secrets, as specified in regulations adopted pursuant to paragraph (3) of subdivision (a) of Section 1798.185.

### **SEC. 3.**

*Section 1798.122 is added to the Civil Code, to read:*

*(a) A business shall not maintain a consumer's personal information outside of the United States unless all of the following are true:*

*(1) The business has informed the consumer of potential risks associated with the business maintaining the consumer's personal information outside of the United States.*

*(2) The consumer explicitly consented to the business maintaining the consumer's personal information outside of the United States.*

*(3) The personal information is not health care information, financial information, or geolocation data.*

*(b) A business shall not maintain personal information that is health care information, financial information, or geolocation data in the custody of a foreign government or a third party that is owned or controlled by a foreign government.*

### **SEC. 4.**

*The Legislature finds and declares that this act furthers the purposes and intent of the California Privacy Rights Act of 2020.*

# AB 410 - (A) Amends the Law

## SECTION 1.

Section 17940 of the Business and Professions Code is amended to read:

For purposes of this chapter:

*(a) "Artificial intelligence" means an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments.*

~~(a)~~ *(b) "Bot" means an automated online account ~~where all or~~ or application that a reasonable person could believe is a human being and with respect to which* substantially all of the actions or posts of that account *or application* are ~~not~~ the ~~result of a person~~ *outputs of generative artificial intelligence.*

*(c) "Generative artificial intelligence" means artificial intelligence that can generate derived synthetic content, including text, images, video, and audio that emulates the structure and characteristics of the system's training data.*

~~(b)~~ *(d) "Online" means appearing on any public-facing ~~Internet Web site, Web~~ internet website, web* application, or digital application, including a social network or publication.

~~(c) "Online platform" means any public-facing Internet Web site, Web application, or digital application, including a social network or publication, that has 10,000,000 or more unique monthly United States visitors or users for a majority of months during the preceding 12 months.~~

~~(d)~~ *(e) "Person" means a natural person, corporation, limited liability company, partnership, joint venture, association, estate, trust, government, governmental subdivision or agency, or other legal entity or any combination thereof.*

## SEC. 2.

Section 17941 of the Business and Professions Code is amended to read:

*(a) It shall be unlawful for any person to use a bot to communicate or interact with another person in California online, with the intent to mislead the other person about its artificial identity for the purpose of knowingly deceiving the person about the content of the communication in order to incentivize a purchase or sale of goods or services in a commercial transaction or to influence a vote in an election. A person using a bot shall not be liable under this section if the person discloses that it is a bot.*

*(b) A person who uses a bot to autonomously communicate with another shall ensure that the bot does all of the following:*

*(1) Discloses to any person with whom the bot communicates when the bot first communicates with the person that the bot is a bot and not a human being.*

*(2) Answers truthfully any subsequent query from a person regarding its identity as a bot or a human.*

*(3) Refrains from attempting to mislead a person regarding its identity as a bot.*

~~(b)~~ *(c) The disclosure required by this section shall be clear, conspicuous, and reasonably designed to inform persons with whom the bot communicates or interacts that it is a bot.*

*(d) If a person who uses a bot is required by another law to comply with a more prescriptive disclosure scheme than this chapter, the person is not required to comply with this chapter.*

## SEC. 3.

Section 17942 of the Business and Professions Code is amended to read:

*(a) The duties and obligations imposed by this chapter are cumulative with any other duties or obligation imposed by any other law.*

*(b) The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.*

~~(c) This chapter does not impose a duty on service providers of online platforms, including, but not limited to, Web hosting and Internet service providers.~~

**SEC. 4.**

*Section 17943 of the Business and Professions Code is repealed.*

~~This chapter shall become operative on July 1, 2019.~~

**SEC. 5.**

*Section 17943 is added to the Business and Professions Code, to read:*

*The Attorney General, a district attorney, a county counsel, a city attorney, or a city prosecutor may bring an action against a person who violates this chapter to obtain either of the following relief:*

*(a) Injunctive relief.*

*(b) A civil penalty of one thousand dollars (\$1,000) per violation.*

# AB 485 - (A) Amends the Law

## **SECTION 1.**

*Section 238.7 is added to the Labor Code, to read:*

*(a) Notwithstanding any other law, if an employer in an industry that is also required to obtain a license or permit from any state agency is found to have violated Section 238, the applicable state agency shall deny a new license or permit, or the renewal of an existing license or permit, for that employer.*

*(b) If the Labor Commissioner finds that an employer is conducting business in violation of Section 238, the Labor Commissioner shall notify the applicable state agency with jurisdiction over that employer's license or permit.*

*(c) For purposes of this section, "state agency" means any agency, department, division, commission, board, bureau, officer, or other authority of the State of California.*

# AB 489 - (A) Amends the Law

## SECTION 1.

*Chapter 15.5 (commencing with Section 4999.8) is added to Division 2 of the Business and Professions Code, to read:*

### **CHAPTER 15.5. Health Advice From Artificial Intelligence**

**4999.8.** *For purposes of this chapter, the following definitions apply:*

*(a) "Artificial intelligence" or "AI" has the same meaning as set forth in Section 11546.45.5 of the Government Code.*

*(b) "Generative artificial intelligence" or "GenAI" has the same meaning as set forth in Section 11549.64 of the Government Code.*

*(c) "Health care profession" means any profession that is the subject of licensure or regulation under this division or under any initiative act referred to in this division.*

**4999.9.** *(a) (1) A violation of this chapter is subject to the jurisdiction of the appropriate health care professional licensing board or enforcement agency.*

*(2) The appropriate health care professional licensing board may pursue an injunction or restraining order to enforce the provisions of this chapter, as authorized by Section 125.5 of the Business and Professions Code.*

*(3) Nothing in this section limits the authority for a health care professional licensing board or enforcement agency to pursue any remedy otherwise authorized under the law.*

*(b) Any provision of this division that prohibits the use of specified terms, letters, or phrases to indicate or imply possession of a license or certificate to practice a health care profession, without at that time having the appropriate license or certificate required for that practice or profession, shall be enforceable against a person or entity who develops or deploys a system or device that uses one or more of those terms, letters, or phrases in the advertising or functionality of an artificial intelligence or generative artificial intelligence system, program, device, or similar technology.*

*(c) The use of a term, letter, or phrase in the advertising or functionality of an AI or GenAI system, program, device, or similar technology that indicates or implies that the care, advice, reports, or assessments being offered through the AI or GenAI technology is being provided by a natural person in possession of the appropriate license or certificate to practice as a health care professional, is prohibited.*

*(d) Each use of a prohibited term, letter, or phrase shall constitute a separate violation of this chapter.*

## SEC. 2.

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



# AB 667 - (A) Amends the Law

## SECTION 1.

*Section 41 is added to the Business and Professions Code, to read:*

*(a) For purposes of this section:*

*(1) "Board" means any board under the jurisdiction of the Department of Consumer Affairs, as specified in Section 101, with the exception of boards within Division 2 (commencing with Section 500).*

*(2) "Interpreter" means an individual who satisfies all of the following conditions:*

*(A) Is fluent in English and in the applicant's preferred language.*

*(B) Has not acted as an interpreter for the examination within the year preceding the examination date.*

*(C) Is not licensed and has not been issued the license for which the applicant is taking the examination.*

*(D) Is not a current or former student in an educational program for the license for which the applicant is taking the examination.*

*(E) Is not a current or former student in an apprenticeship or training program for the license for which the applicant is taking the examination.*

*(F) Is not a current or former owner or employee of a school for the license for which the applicant is taking the examination.*

*(b) Notwithstanding any other law, beginning July 1, 2026, each board shall do all of the following:*

*(1) Permit an applicant to use an interpreter, if the applicant cannot read, speak, or write in English, to interpret the English written and oral portions of a state-administered license examination to their preferred language, provided the applicant meets all other requirements for licensure.*

*(A) An interpreter shall not assist the applicant with any examination for a license for which English language proficiency is required by law or regulation.*

*(B) An interpreter shall not assist the applicant if an examination is offered in the applicant's preferred language.*

*(C) The board shall not charge an applicant a fee, penalty, or surcharge for the applicant's use of an interpreter.*

*(2) Post on the board's internet website that an applicant may use an interpreter to interpret a license examination if the applicant cannot read, speak, or write in English and the examination is not offered in their preferred language, provided the applicant meets all other competency requirements for licensure. This notice shall be posted in English, Spanish, Farsi, Hindi, Chinese, Cantonese, Mandarin, Korean, Vietnamese, Tagalog, and Arabic.*

*(3) Include an additional section in a license application that asks an applicant to identify their preferred written, spoken, and signed languages.*

*(c) Beginning July 1, 2027, each board shall conduct an annual review of applicants' language preferences that are collected from license applications.*

*(d) (1) Beginning January 1, 2029, each board shall annually report to the Senate Business, Professions, and Economic Development and the Assembly Business and Professions Committees on language preference data collected from license applications.*

*(2) The report shall be submitted in compliance with Section 9795 of the Government Code.*

*(3) Pursuant to Section 10231.5 of the Government Code, this subdivision shall become inoperative on January 1, 2033.*

# AB 742 - (A) Amends the Law

## SECTION 1.

*Section 115.7 is added to the Business and Professions Code, to read:*

*(a) Notwithstanding any other law, once the process to certify descendants of American slaves is established by the Bureau for Descendants of American Slavery pursuant to Part 15 (commencing with Section 16000) of Division 3 of Title 2 of the Government Code that confirms an individual's status as a descendant of an American slave, each board shall prioritize applicants seeking licensure who are descendants of American slaves.*

*(b) This section shall become operative on the date that the certification process for the descendants of American Slaves is established by the Bureau for Descendants of American Slavery pursuant to Part 15 (commencing with Section 16000) of Division 3 of Title 2 of the Government Code.*

*(c) This section shall remain in effect only for four years from the date on which this section became operative, or until January 1, 2032, whichever is earlier, and as of that date is repealed.*

*(d) This section shall become operative only if Senate Bill 518 of the 2025–26 Regular Session is enacted establishing the Bureau for Descendants of American Slavery.*

# AB 784 - (A) Amends the Law

## SECTION 1.

*The Legislature finds and declares all of the following:*

- (a) Deaf or hard-of-hearing pupils have unique communication, language, and educational access needs that may not always require placement in a special day class or receipt of core academic instruction by a special education teacher.*
- (b) Sections 3051.16 and 3051.18 of Title 5 of the California Code of Regulations establish specialized services for pupils with hearing impairments that may include language and communication development, auditory skill development, and educational accommodations and supports.*
- (c) "Specialized deaf and hard of hearing services," as identified by Service Code 710 of the California Special Education Management Information System, refers to related services that may be provided in isolation from other special education services, based solely on the pupil's assessed needs.*
- (d) There is a need to clarify that these services may be delivered as standalone services and may be appropriately contracted through certified nonpublic, nonsectarian agencies when a teacher of a deaf or hard-of-hearing pupil is not delivering core academic instruction, but rather is delivering related services supporting the pupil's access and communication.*

## SEC. 2.

*Section 56031 of the Education Code is amended to read:*

- (a) "Special education," in accordance with Section 1401(29) of Title 20 of the United States Code, means specially designed instruction, at no cost to the parent, to meet the unique needs of individuals with exceptional needs, including instruction conducted in the classroom, in the home, in hospitals and institutions, and other settings, and instruction in physical education.*
- (b) In accordance with Section 300.39 of Title 34 of the Code of Federal Regulations, special education includes each of the following, if the services otherwise meet the requirements of subdivision (a):*
  - (1) Speech-language pathology services, or any other designated instruction and service or related service, pursuant to Section 56363, if the service is considered special education rather than a designated instruction and service or related service under state standards.*
  - (2) Travel training.*
  - (3) Vocational education.*
- (c) Transition services for individuals with exceptional needs may be special education, in accordance with Section 300.43(b) of Title 34 of the Code of Federal Regulations, if provided as specially designed instruction, or a related service, if required to assist an individual with exceptional needs to benefit from special education.*
- (d) Individuals with exceptional needs shall be grouped for instructional purposes according to their instructional needs.*
- (e) This section shall not be construed to prohibit an individualized education program from including specialized deaf and hard-of-hearing related services as the only services.*

# AB 970 - (A) Amends the Law

## SECTION 1.

*(a) It is the intent of the Legislature to ensure that mandated reporters, as defined in Section 11165.7 of the Penal Code, are adequately trained, equipped, and supported to make accurate, consistent, and equitable reporting decisions about known or suspected child abuse or neglect to ensure child safety and well-being.*

*(b) The Legislature finds and declares all of the following:*

*(1) Mandated reporters would benefit from consistent training and support for making this consequential decision.*

*(2) Reporting decisions made by mandated reporters are often influenced by factors that are distinct from concerns regarding child abuse or neglect, such as fear of personal or organizational liability or both, bias based on race or socioeconomic status or both, and desire to connect a family in need with supportive resources.*

*(3) Mandated reporters are not currently provided adequate training and tools to guide their decisions on when to report known or suspected abuse and neglect or how to connect children and families to services if a report is not necessary but the family needs direct supports and services.*

*(4) These factors contribute to the disproportionate representation of certain racial and ethnic populations within the child welfare system, the overreporting of families who may be experiencing stressors that do not meet the statutory requirement for a report to the child protection hotline, and an underreporting of children who may be experiencing child abuse or neglect.*

## SEC. 2.

*Section 11166.03 is added to the Penal Code, to read:*

*(a) Notwithstanding Section 11166.02 of this code and Section 10612.5 of the Welfare and Institutions Code, the County of Los Angeles may establish a two-year pilot program to test and evaluate a new model for the mandatory reporting of child abuse or neglect. The goal of the pilot program is to better equip mandated reporters to make more accurate, consistent, and equitable reporting decisions about child abuse or neglect through improved training and decision support. The pilot program also aims to improve mandated reporter capacity to identify community-based supportive resources for families who are in need, but do not require an intervention by the Los Angeles County Department of Children and Family Services to prevent future child abuse or neglect and promote family well-being.*

*(b) (1) (A) The pilot program authorized by this section shall implement and evaluate a new model for mandatory reporting of child abuse or neglect with one or more organizations that represent entities who employ a mandated reporter as defined in Section 11165.7.*

*(B) (i) An organization that employs a mandated reporter may elect to participate in a pilot program established pursuant to this section.*

*(ii) An employee of an organization that elects to participate in a pilot program established pursuant to this section may elect to participate in the pilot program. An organization shall not penalize or retaliate against an employee who does not participate in the pilot program.*

*(2) The pilot program shall include all of the following:*

*(A) The development and dissemination of a comprehensive County of Los Angeles mandated reporter training to participating organizations. The training may be made available to all mandated reporters in the County of Los Angeles and shall include, but not be limited to, all of the following:*

*(i) Information about child abuse or neglect consistent with statutes and appellate legal interpretations of the legal standards.*

*(ii) Information about the duty to report known or reasonably suspected child abuse or neglect, including civil liability and criminal penalties for failing to report.*

*(iii) Information about the role of cognitive biases in reporting decisions and racial disproportionality in the child welfare system.*

*(iv) Training on using the decision-support tool described in subparagraph (B).*

*(B) The development and deployment of an internet-based decision-support tool that may be used by mandated reporters who have completed the training described in subparagraph (A) to support and guide*

*their duty to report suspected child abuse or neglect. The decision-support tool shall not use predictive analysis. The tool shall meet all of the following requirements:*

*(i) Be developed through a collaborative process that includes, but is not limited to, child welfare personnel, mandated reporters, as defined in Section 11165.7, the State Department of Social Services, people with lived experience with the child welfare system, advocates, other subject matter experts, and people with expertise in the field of decision-support analysis.*

*(ii) Be designed in compliance with all relevant state and local laws and policies.*

*(iii) Recommend to mandated reporters one of the following:*

*(I) A report to the child protection hotline is required.*

*(II) Consultation with the child protection hotline is required.*

*(III) No report to the child protection hotline is required, but a family may benefit from supportive services from a community-based organization that meets the following requirements:*

*(ia) A demonstrated capacity to provide relevant prevention services that are reasonable and meritorious.*

*(ib) A demonstrated success at avoiding out-of-home placements.*

*(ic) A willingness to collaborate with local county welfare agencies to coordinate eligibility and enrollment into relevant assistance programs.*

*(id) An ability to implement preventive measures to reduce the likelihood of child welfare involvement, which may include support with addressing housing instability or access to health care.*

*(ie) Is equipped to serve diverse populations and the community with broad language capabilities.*

*(if) Compliance with regulations and guidelines regarding confidentiality.*

*(ig) Knowledge and understanding of current practices that strengthen protective factors and promote child safety and family well-being.*

*(IV) No action is required.*

*(iv) Notify the user that a mandated reporter is not prohibited from making a report to the child protection hotline regardless of the recommended action.*

*(v) Provide documentation and confirmation of its use and the recommended action to the mandated reporter.*

*(vi) Maintain the confidentiality of the identity of the mandated reporter pursuant to Section 11167 regardless of the recommended action.*

*(vii) Ensure deidentified, aggregated data is collected regarding the individuals served by the decision-support tool.*

*(C) Provide mandated reporters with access to a method for identifying local supportive resources for families who are in need of assistance. This method may include, but not be limited to, an online information and referral system, a call center-based information and referral system, a services navigator, a service support center, or a combination of these.*

*(c) (1) Completion of the comprehensive mandated reporter training pursuant to this section shall satisfy all statutory requirements for mandated reporter training as required by Section 18975 of the Business and Professions Code, Sections 33195, 44252, and 44691 of the Education Code, Section 1596.8662 of the Health and Safety Code, and all other relevant code sections regarding training for mandatory reporting of suspected child abuse or neglect.*

*(2) The comprehensive mandated reporter training may be completed asynchronously via an electronic learning format, in an instructor-led format, or in an in-person format.*

*(d) During the time that the pilot program is in effect, mandated reporters participating in the pilot program in the County of Los Angeles shall have satisfied their reporting duties as a mandated reporter under subdivisions (a) and (b) of Section 11166 if they have completed the training described in subparagraph (A) of paragraph (2) of subdivision (b), utilized the required elements of the decision-support tool described in subparagraph (B) of paragraph (2) of subdivision (b), and complied with the recommended action provided by that tool or otherwise specified by law.*

*(e) (1) A mandated reporter who has satisfied their reporting duties under subdivision (d) is not subject to civil liability or criminal penalty for failing to report known or suspected child abuse or neglect pursuant to subdivision (c) of Section 11166 or Section 11166.01 and is not subject to penalties impacting their professional licenses, credentials, certifications, or other standards qualifying work in a particular field.*

*(2) The mandated reporter's supervisor, employer, superior, or principal is not subject to civil liability or criminal penalty for the mandated reporter's utilization of the decision-support tool and compliance with the recommended action provided by that tool regarding the same incident.*

*(f) (1) (A) If the County of Los Angeles implements the pilot program pursuant to this section, the county shall conduct a comprehensive evaluation of the pilot program and report its findings to the Legislature on or before October 31, 2029.*

*(B) The report shall include, but not be limited to, all of the following:*

*(i) The number of times the decision-support tool was used and the corresponding recommendation for each instance.*

*(ii) Data on each referral to supportive services and whether the need to make a report to the child protection hotline was subsequently required.*

*(iii) Data on the services needed if a child was found to require supportive services.*

*(iv) Data on the number of reports to the child protection hotline that were made in the County of Los Angeles at the commencement of the pilot program and at its conclusion.*

*(v) Data on frequency of usage of the decision-support tool for the same family.*

*(vi) The implications for broader implementation in the state.*

*(C) The County of Los Angeles may contract with an independent entity for the purpose of designing and conducting the evaluation, as well as preparing the report pursuant to this subdivision.*

*(D) The County of Los Angeles shall seek the input of the State Department of Social Services and stakeholders, including people with lived experience with the child welfare system and legal representatives, in the design and implementation of the evaluation.*

*(E) The evaluation shall be paid for by the County of Los Angeles.*

*(2) The report to be submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.*

*(g) As used in this section, "mandated reporter" has the same meaning as defined in Section 11165.7.*

*(h) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.*

### **SEC. 3.**

*The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the need to address the myriad of issues relative to mandated reporting in the County of Los Angeles.*

# AB 1015 - (I) Amends the Law

## SECTION 1.

Section 12950.1 of the Government Code is amended to read:

(a) (1) By January 1, 2021, an employer having five or more employees shall provide at least two hours of classroom or other effective interactive training and education regarding sexual harassment to all supervisory employees and at least one hour of classroom or other effective interactive training and education regarding sexual harassment to all nonsupervisory employees in California. Thereafter, each employer covered by this section shall provide sexual harassment training and education to each employee in California once every two years. New nonsupervisory employees shall be provided training within six months of hire. New supervisory employees shall be provided training within six months of the assumption of a supervisory position. An employer may provide this training in conjunction with other training provided to the employees. The training may be completed by employees individually or as part of a group presentation, and may be completed in shorter segments, as long as the applicable hourly total requirement is met. An employer who has provided this training and education to an employee in 2019 is not required to provide refresher training and education again until two years thereafter. The training and education required by this section shall include information and practical guidance regarding the federal and state statutory provisions concerning the prohibition against and the prevention and correction of sexual harassment and the remedies available to victims of sexual harassment in employment. The training and education shall also include practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation, and shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation. The department shall provide a method for employees who have completed the training to save electronically and print a certificate of completion.

(2) An employer shall also include prevention of abusive conduct as a component of the training and education specified in paragraph (1).

(3) An employer shall also provide training inclusive of harassment based on gender identity, gender expression, and sexual orientation as a component of the training and education specified in paragraph (1). The training and education shall include practical examples inclusive of harassment based on gender identity, gender expression, and sexual orientation, and shall be presented by trainers or educators with knowledge and expertise in those areas.

(b) The state shall incorporate the training required by subdivision (a) into the 80 hours of training provided to all new employees pursuant to subdivision (b) of Section 19995.4, using existing resources.

(c) Notwithstanding subdivisions (j) and (k) of Section 12940, a claim that the training and education required by this section did not reach a particular individual or individuals shall not in and of itself result in the liability of any employer to any present or former employee or applicant in any action alleging sexual harassment. Conversely, an employer's compliance with this section does not insulate the employer from liability for sexual harassment of any current or former employee or applicant.

(d) If an employer violates this section, the department may seek an order requiring the employer to comply with these requirements.

(e) The training and education required by this section is intended to establish a minimum threshold and should not discourage or relieve any employer from providing for longer, more frequent, or more elaborate training and education regarding workplace harassment or other forms of unlawful discrimination in order to meet its obligations to take all reasonable steps necessary to prevent and correct harassment and discrimination. This section shall not be construed to override or supersede statutes, including, but not limited to, Section 1684 of the Labor Code, that meet or exceed the training for nonsupervisory employees required under this section.

(f) Except as provided in subdivision (l), beginning January 1, 2021, for seasonal, temporary, or other employees that are hired to work for less than six months, an employer shall provide training within 30 calendar days after the hire date or within 100 hours worked, whichever occurs first. In the case of a temporary employee employed by a temporary services employer, as defined in Section 201.3 of the Labor Code, to perform services for clients, the training shall be provided by the temporary services employer, not the client.

(g) Beginning January 1, 2020, sexual harassment prevention training for migrant and seasonal agricultural workers, as defined in the federal Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801, et seq.), shall be consistent with training for nonsupervisory employees pursuant to paragraph (8) of subdivision (a) of Section 1684 of the Labor Code.

(h) (1) For purposes of this section only, "employer" means any person regularly employing five or more persons or regularly receiving the services of five or more persons providing services pursuant to a contract, or any person acting as an agent of an employer, directly or indirectly, the state, or any political or civil subdivision of the state, and cities.

(2) For purposes of this section, "abusive conduct" means conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests. Abusive conduct may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance. A single act shall not constitute abusive conduct, unless especially severe and egregious.

(i) For purposes of providing training to employees as required by this section, an employer may develop its own training module or may direct employees to view the online training course referenced in subdivision (j) and this shall be deemed to have complied with and satisfied the employers' obligations as set forth in this section and Section 12950.

(j) The department shall develop or obtain two online training courses on the prevention of sexual harassment in the workplace in accordance with the provisions of this section. The course for nonsupervisory employees shall be one hour in length and the course for supervisory employees shall be two hours in length.

(k) The department shall make the online training courses available on its internet website. The online training courses shall contain an interactive feature that requires the viewer to respond to a question periodically in order for the online training courses to continue to play. Any questions resulting from the online training course described in this subdivision shall be directed to the trainee's employer's human resources department or equally qualified professional rather than the department.

(l) (1) An employer that employs workers pursuant to a multiemployer collective bargaining agreement in the construction industry may satisfy the requirements of subdivision (a) or (f) by demonstrating that the employee has received the training required by subdivision (a) within the past two years under any of the following circumstances:

(A) While the employee was employed by another employer that is also signatory to a multiemployer collective bargaining agreement with the same trade in the building and construction industry.

(B) While the employee was an apprentice registered in a building and construction trades apprenticeship program approved by the Division of Apprenticeship Standards.

(C) Through a building and construction trades apprenticeship program approved by the Division of Apprenticeship Standards, a labor management training trust, or labor management cooperation committee. For purposes of this subdivision, "labor management cooperation committee" shall mean a committee that is established pursuant to Section 175a of Title 29 of the United States Code.



(2) For purposes of this subdivision, “multiemployer collective bargaining agreement” means a bona fide collective bargaining agreement to which multiple employers are signatory, including predecessor and successor agreements.

(3) An employer shall require verification that an employee has undergone prevention of harassment training pursuant to this subdivision within the past two years. The employer shall provide prevention of harassment training pursuant to subdivision (a) for any employee for whom verification cannot be obtained.

(4) A state-approved apprenticeship program, labor management training trust, or labor management cooperation committee shall maintain a certificate of completion of training for each person to whom the entity has provided prevention of harassment training pursuant to this subdivision for a period of not less than four years. The apprenticeship program, labor management training trust, or labor management cooperation committee shall maintain a database of journey-level worker and apprentice training that entity has provided and shall provide verification of an employee’s or apprentice’s prevention of harassment training status upon the request of an employer that is a party to the multiemployer collective bargaining agreement.

(5) (A) A qualified trainer may provide prevention of harassment training on behalf of an apprenticeship program, labor management training trust, or labor management cooperation committee.

(B) A “qualified trainer,” for purposes of this subdivision, is any person who, through a combination of training and experience, has the ability to train employees about the following:

(i) How to identify behavior that may constitute unlawful harassment, discrimination, or retaliation under both California and federal law.

(ii) What steps to take when harassing behavior occurs in the workplace.

(iii) How to report harassment complaints.

(iv) Supervisory employees’ obligation to report harassing, discriminatory, or retaliatory behavior of which they become aware.

(v) How to respond to a harassment complaint.

(vi) The employer’s obligation to conduct a workplace investigation of a harassment complaint.

(vii) What constitutes retaliation and how to prevent it.

(viii) Essential components of an antiharassment policy.

(ix) The effect of harassment on harassed employees, coworkers, harassers, and employers.

(C) A “qualified trainer” includes, but is not limited to, an attorney admitted to the State Bar of California with at least two years of experience practicing employment law, a human resources professional with at least two years of practical experience in prevention of harassment training, investigation, and advising employers in the prevention of harassment, or any other person who has received training in the provision of prevention of harassment training from a qualified trainer.

(6) An apprenticeship program, labor management training trust, or labor management cooperation committee may also provide training by use of the online training courses referenced in subdivision (j).

(7) An apprenticeship program, labor management training trust, or labor management cooperation committee shall not incur any liability for providing prevention of harassment training or for maintaining records pursuant to this subdivision.

*(m) An employer may satisfy the requirements of subdivision (a) or (f) by demonstrating that the employee possesses a certificate of completion within the past two years for the training required pursuant to subdivision (a).*

~~(m)~~ (n) An employee who has received training in compliance with this section within the prior two years either from a current, a prior, or an alternate or a joint employer, or who received a valid work permit from the Labor Commissioner that required the employee to receive training in compliance with this section within the prior two years, shall be given, and required to read and to acknowledge receipt of, the employer's ~~anti-harassment~~ *antiharassment* policy within six months of assuming the employee's new position. That employee shall then be put on a ~~two-year~~ *two-year* tracking schedule based on the employee's last training. The current employer shall have the burden of establishing that the prior training was legally compliant with this section.

# AB 1110 - (A) Amends the Law

## SECTION 1.

*Section 6328 of the Labor Code is amended to read:*

*(a) The division shall prepare a notice containing pertinent information regarding safety rules and regulations. The notice shall contain all of the following:*

- (1) The address, telephone number, and email address of the nearest division office.*
- (2) A clear explanation of an employee's right to report any unsafe working conditions.*
- (3) The right to request a safety inspection by the division for unsafe conditions.*
- (4) The right to refuse to work under conditions that endanger an employee's life or health.*
- (5) The right to receive information under the Hazardous Substances Information and Training Act (Ch. 2.5 (commencing with Section 6360)).*
- (6) Posting and notice requirements of employers and the division.*
- (7) Any other information the division deems necessary.*

~~(b) The division shall prepare a notice containing pertinent information regarding safety rules and regulations. The notice shall contain the address and telephone number of the nearest division office; a clear explanation of an employee's right to report any unsafe working conditions; the right to request a safety inspection by the division for unsafe conditions; the right to refuse to work under conditions which endanger his life or health; the right to receive information under the Hazardous Substances Information and Training Act (Ch. 2.5 (commencing with Section 6360)); posting and notice requirements of employers and the division; and any other information the division deems necessary. It shall~~ *notice shall* be supplied to employers as soon as practical. The division shall promulgate regulations on the content and the required location and number of notices ~~which~~ *that* must be posted by employers. Sufficient posters in both English and Spanish shall be printed to supply employers in this state.

# AB 1192 - (I) Amends the Law

## SECTION 1.

Section 11166.1 of the Penal Code is amended to read:

(a) (1) When an agency receives a report pursuant to Section 11166 that contains either of the following, it shall, within 24 hours, notify the licensing office with jurisdiction over the facility:

(A) A report of abuse alleged to have occurred in facilities licensed to care for children by the State Department of Social Services.

(B) A report of the death of a child who was, at the time of death, living at, enrolled in, or regularly attending a facility licensed to care for children by the State Department of Social Services, unless the circumstances of the child's death are clearly unrelated to the child's care at the facility.

(2) The agency shall send the licensing agency a copy of its investigation and any other pertinent materials.

(b) (1) Any employee of an agency specified in Section 11165.9 who has knowledge of, or observes in their professional capacity or within the scope of their employment, a child in protective custody whom the employee knows or reasonably suspects has been the victim of child abuse or neglect shall, within 36 hours, send or have sent to the attorney who represents the child in dependency *court and the attorney who represents a parent or legal guardian of the child in dependency* court, a copy of the report prepared in accordance with Section 11166. The agency shall maintain a copy of the written report. All information requested by the attorney for the child or the child's guardian ad litem shall be provided by the agency within 30 days of the request.

*(2) The requirement in paragraph (1) does not apply to a parent whose parental rights have been terminated pursuant to Section 366.26 of the Welfare and Institutions Code or a parent who is not entitled to reunification services as described in Section 361.5 of the Welfare and Institutions Code.*

*(3) The agency shall redact all personal identifying information regarding all persons, other than the child, who are identified in the report described in paragraph (1).*

*(4) (A) If the suspected abuse or neglect occurred in any placement, all attorneys who represent children with an open dependency case in that placement shall receive the report described in paragraph (1). For purposes of this paragraph, a placement includes, but is not limited to, placement in foster care or congregate care, placement in a short-term residential therapeutic program facility, or a relative placement.*

*(B) The agency shall redact all personal identifying information regarding all persons, including the child, who are identified in the report submitted pursuant to this paragraph.*

*(5) For purposes of this subdivision, "personal identifying information" shall have the same meaning as it is defined in subdivision (b) of Section 530.55.*

(c) (1) When an agency receives a report pursuant to Section 11166 alleging abuse or neglect of the child of a minor parent or a nonminor dependent parent, the agency shall, within 36 hours, provide notice of the report to the attorney who represents the minor parent or nonminor dependent in dependency court.

(2) For purposes of this subdivision, "minor parent" and "nonminor dependent parent" have the same meaning as in Section 16002.5 of the Welfare and Institutions Code.

## SEC. 2.

*To the extent that this act has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation within the meaning of Section 36 of Article XIII of the California Constitution, it shall apply to local agencies only to the extent that the state provides annual funding for the cost increase. Any new program or higher level of service provided by a local agency pursuant to this act above the level for which funding has been provided shall not require a subvention of funds by the state or otherwise be subject to Section 6 of Article XIII B of the California Constitution.*

# AB 1326 - (A) Amends the Law

## SECTION 1.

*Chapter 26 (commencing with Section 28050) is added to Division 20 of the Health and Safety Code, to read:*

### **28050. CHAPTER 26. Right to Wear a Health Mask**

*For purposes of this chapter, the following definitions apply:*

*(a) "Mask" means any of the following masks for placement on an individual's face:*

- (1) A filtering facepiece respirator, such as an N95 or KN95 mask.*
- (2) A surgical mask.*
- (3) A cloth mask.*
- (4) Another mask within the scope of personal protective equipment, as defined in Section 131021.*

*(b) "Public place" means any of the following:*

- (1) A place of business that is open to the general public for the sale of goods or services.*
- (2) Another place of public accommodation, as defined in Section 2000a of Title 42 of the United States Code, or within the scope of entities that are subject to Section 51 of the Civil Code.*
- (3) A governmental or public building or place open to the general public.*
- (4) A street, road, plaza, park, or other outdoor space open to the general public.*
- (5) A mode of public transportation.*
- (6) A clinic, a hospital or other health facility, a care facility, or other health care setting.*
- (7) An academic institution or other educational setting.*
- (8) An employment setting or other workplace.*

**28051.** *An individual has the right to wear a mask on their face in a public place for the purpose of protecting their individual health or the public health, with regard to communicable disease, air quality, or other health factors, subject to any limitations described in this chapter.*

**28052.** *Section 28051 shall not be construed as limiting or otherwise modifying the application or implementation of any of the following:*

- (a) Any requirement to temporarily remove a mask for identification purposes through facial recognition, as part of security regulations, procedures, or protocols under federal or state law, or as part of the policy of a public place if identification of an individual is required for entry into the public place and removal of the mask is necessary for that identification.*
- (b) Any requirement to avoid obstruction of vision while operating a vehicle. It is the intent of the Legislature that a mask worn as described in this chapter is in the form of covering an individual's mouth and nose and not an individual's eyes.*
- (c) Any requirement to remove a mask for purposes of a bona fide occupational qualification.*
- (d) Any health care protocols to remove a mask as necessary to access an individual's face in order to perform a health care treatment or procedure on an emergency basis.*
- (e) Section 185 of the Penal Code.*

# AB 1327 - (A) Amends the Law

## SECTION 1.

Section 7159 of the Business and Professions Code is amended to read:

(a) (1) This section identifies the projects for which a home improvement contract is required, outlines the contract requirements, and lists the items that shall be included in the contract, or may be provided as an attachment.

(2) This section does not apply to service and repair contracts that are subject to Section 7159.10, if the contract for the applicable services complies with Sections 7159.10 to 7159.14, inclusive.

(3) This section does not apply to the sale, installation, and servicing of a fire alarm sold in conjunction with an alarm system, as defined in Section 7590.1, if all costs attributable to making the fire alarm system operable, including sale and installation costs, do not exceed five hundred dollars (\$500), and the licensee complies with the requirements set forth in Section 7159.9.

(4) This section does not apply to any costs associated with monitoring a burglar or fire alarm system.

(5) Failure by the licensee, their agent or salesperson, or by a person subject to be licensed under this chapter, to provide the specified information, notices, and disclosures in the contract, or to otherwise fail to comply with any provision of this section, is cause for discipline.

(b) For purposes of this section, "home improvement contract" means an agreement, whether oral or written, or contained in one or more documents, between a contractor and an owner or between a contractor and a tenant, regardless of the number of residence or dwelling units contained in the building in which the tenant resides, if the work is to be performed in, to, or upon the residence or dwelling unit of the tenant, for the performance of a home improvement, as defined in Section 7151, and includes all labor, services, and materials to be furnished and performed thereunder, if the aggregate contract price specified in one or more improvement contracts, including all labor, services, and materials to be furnished by the contractor, exceeds five hundred dollars (\$500). "Home improvement contract" also means an agreement, whether oral or written, or contained in one or more documents, between a salesperson, whether or not they are a home improvement salesperson, and an owner or a tenant, regardless of the number of residence or dwelling units contained in the building in which the tenant resides, which provides for the sale, installation, or furnishing of home improvement goods or services.

(c) In addition to the specific requirements listed under this section, every home improvement contract and any person subject to licensure under this chapter or their agent or salesperson shall comply with all of the following:

(1) The writing shall be legible.

(2) Any printed form shall be readable. Unless a larger typeface is specified in this article, text in any printed form shall be in at least 10-point typeface and the headings shall be in at least 10-point boldface type.

(3) (A) Before any work is started, the contractor shall give the buyer a copy of the contract signed and dated by both the contractor and the buyer. The buyer's receipt of the copy of the contract initiates the buyer's rights to cancel the contract pursuant to Sections 1689.5 to 1689.14, inclusive, of the Civil Code.

(B) The contract shall contain on the first page, in a typeface no smaller than that generally used in the body of the document, both of the following:

(i) The date the buyer signed the contract.

(ii) The ~~name~~ *name*, *address*, and *email* address of the contractor to which the applicable "Notice of Cancellation" is to be ~~mailed~~, *sent*, immediately preceded by a statement advising the buyer that the "Notice of Cancellation" may be sent to the contractor at the address *or email address* noted on the contract.

*(iii) The telephone number of a support line to aid in completing the "Notice of Cancellation."*

(4) The contract shall include a statement that, upon satisfactory payment being made for any portion of the work performed, the contractor, prior to any further payment being made, shall furnish to the person contracting for the home improvement or swimming pool work a full and unconditional release from any potential lien claimant claim or mechanics lien authorized pursuant to Sections 8400 and 8404 of the Civil Code for that portion of the work for which payment has been made.

(5) A change-order form for changes or extra work shall be incorporated into the contract and shall become part of the contract only if it is in writing and signed by the parties prior to the commencement of any work covered by a change order.

(6) The contract shall contain, in close proximity to the signatures of the owner and contractor, a notice stating that the owner or tenant has the right to require the contractor to have a performance and payment bond.

(7) If the contract provides for a contractor to furnish joint control, the contractor shall not have any financial or other interest in the joint control.

(8) The provisions of this section are not exclusive and do not relieve the contractor from compliance with any other applicable provision of law.

(d) A home improvement contract and any changes to the contract shall be in writing and signed by the parties to the contract prior to the commencement of work covered by the contract or an applicable change order and, except as provided in paragraph (8) of subdivision (a) of Section 7159.5, shall include or comply with all of the following:

(1) The name, business address, and license number of the contractor.

(2) If applicable, the name and registration number of the home improvement salesperson that solicited or negotiated the contract.

(3) The following heading on the contract form that identifies the type of contract in at least 10-point boldface type: "Home Improvement."

(4) The following statement in at least 12-point boldface type: "You are entitled to a completely filled in copy of this agreement, signed by both you and the contractor, before any work may be started."

(5) The heading: "Contract Price," followed by the amount of the contract in dollars and cents.

(6) If a finance charge will be charged, the heading: "Finance Charge," followed by the amount in dollars and cents. The finance charge is to be set out separately from the contract amount.

(7) The heading: "Description of the Project and Description of the Significant Materials to be Used and Equipment to be Installed," followed by a description of the project and a description of the significant materials to be used and equipment to be installed. For swimming pools, the project description required under this paragraph also shall include a plan and scale drawing showing the shape, size, dimensions, and the construction and equipment specifications.

(8) If a downpayment will be charged, the details of the downpayment shall be expressed in substantially the following form, and shall include the text of the notice as specified in subparagraph (C):

(A) The heading: "Downpayment."

(B) A space where the actual downpayment appears.

(C) The following statement in at least 12-point boldface type:

**"THE DOWNPAYMENT MAY NOT EXCEED \$1,000 OR 10 PERCENT OF THE CONTRACT PRICE, WHICHEVER IS LESS."**

(9) If payments, other than the downpayment, are to be made before the project is completed, the details of these payments, known as progress payments, shall be expressed in substantially the following form, and shall include the text of the statement as specified in subparagraph (C):

(A) A schedule of progress payments shall be preceded by the heading: "Schedule of Progress Payments."

(B) Each progress payment shall be stated in dollars and cents and specifically reference the amount of work or services to be performed and materials and equipment to be supplied.

(C) The section of the contract reserved for the progress payments shall include the following statement in at least 12-point boldface type:

**"The schedule of progress payments must specifically describe each phase of work, including the type and amount of work or services scheduled to be supplied in each phase, along with the amount of each proposed progress payment. IT IS AGAINST THE LAW FOR A CONTRACTOR TO COLLECT PAYMENT FOR WORK NOT YET COMPLETED, OR FOR MATERIALS NOT YET DELIVERED. HOWEVER, A CONTRACTOR MAY REQUIRE A DOWNPAYMENT."**

(10) The contract shall address the commencement of work to be performed in substantially the following form:

- (A) A statement that describes what constitutes substantial commencement of work under the contract.
- (B) The heading: "Approximate Start Date."
- (C) The approximate date on which work will be commenced.

(11) The estimated completion date of the work shall be referenced in the contract in substantially the following form:

- (A) The heading: "Approximate Completion Date."

- (B) The approximate date of completion.

(12) If applicable, the heading: "List of Documents to be Incorporated into the Contract," followed by the list of documents incorporated into the contract.

(13) The heading: "Note About Extra Work and Change Orders," followed by the following statement:

"Extra Work and Change Orders become part of the contract once the order is prepared in writing and signed by the parties prior to the commencement of work covered by the new change order. The order must describe the scope of the extra work or change, the cost to be added or subtracted from the contract, and the effect the order will have on the schedule of progress payments."

(e) Except as provided in paragraph (8) of subdivision (a) of Section 7159.5, all of the following notices shall be provided to the owner as part of the contract form as specified or, if otherwise authorized under this subdivision, may be provided as an attachment to the contract:

(1) A notice concerning commercial general liability insurance. This notice may be provided as an attachment to the contract if the contract includes the following statement: "A notice concerning commercial general liability insurance is attached to this contract." The notice shall include the heading "Commercial General Liability Insurance (CGL)," followed by whichever of the following statements is both relevant and correct:

(A) "(The name on the license or 'This contractor') does not carry commercial general liability insurance."

(B) "(The name on the license or 'This contractor') carries commercial general liability insurance written by (the insurance company). You may call (the insurance company) at \_\_\_\_\_ to check the contractor's insurance coverage."

(C) "(The name on the license or 'This contractor') is self-insured."

(D) "(The name on the license or 'This contractor') is a limited liability company that carries liability insurance or maintains other security as required by law. You may call (the insurance company or trust company or bank) at \_\_\_\_\_ to check on the contractor's insurance coverage or security."

(2) A notice concerning workers' compensation insurance. This notice may be provided as an attachment to the contract if the contract includes the statement: "A notice concerning workers' compensation insurance is attached to this contract." The notice shall include the heading "Workers' Compensation Insurance" followed by whichever of the following statements is correct:

(A) "(The name on the license or 'This contractor') has no employees and is exempt from workers' compensation requirements."

(B) "(The name on the license or 'This contractor') carries workers' compensation insurance for all employees."

(3) A notice that provides the buyer with the following information about the performance of extra or change-order work:

(A) A statement that the buyer may not require a contractor to perform extra or change-order work without providing written authorization prior to the commencement of work covered by the new change order.

(B) A statement informing the buyer that extra work or a change order is not enforceable against a buyer unless the change order also identifies all of the following in writing prior to the commencement of work covered by the new change order:

(i) The scope of work encompassed by the order.

(ii) The amount to be added or subtracted from the contract.

(iii) The effect the order will make in the progress payments or the completion date.

(C) A statement informing the buyer that the contractor's failure to comply with the requirements of this paragraph does not preclude the recovery of compensation for work performed based upon legal or equitable remedies designed to prevent unjust enrichment.

(4) A notice with the heading "Mechanics Lien Warning" written as follows:

"MECHANICS LIEN WARNING:



Anyone who helps improve your property, but who is not paid, may record what is called a mechanics lien on your property. A mechanics lien is a claim, like a mortgage or home equity loan, made against your property and recorded with the county recorder.

Even if you pay your contractor in full, unpaid subcontractors, suppliers, and laborers who helped to improve your property may record mechanics liens and sue you in court to foreclose the lien. If a court finds the lien is valid, you could be forced to pay twice or have a court officer sell your home to pay the lien. Liens can also affect your credit.

To preserve their right to record a lien, each subcontractor and material supplier must provide you with a document called a 'Preliminary Notice.' This notice is not a lien. The purpose of the notice is to let you know that the person who sends you the notice has the right to record a lien on your property if they are not paid.

**BE CAREFUL.** The Preliminary Notice can be sent up to 20 days after the subcontractor starts work or the supplier provides material. This can be a big problem if you pay your contractor before you have received the Preliminary Notices.

You will not get Preliminary Notices from your prime contractor or from laborers who work on your project. The law assumes that you already know they are improving your property.

**PROTECT YOURSELF FROM LIENS.** You can protect yourself from liens by getting a list from your contractor of all the subcontractors and material suppliers that work on your project. Find out from your contractor when these subcontractors started work and when these suppliers delivered goods or materials. Then wait 20 days, paying attention to the Preliminary Notices you receive.

**PAY WITH JOINT CHECKS.** One way to protect yourself is to pay with a joint check. When your contractor tells you it is time to pay for the work of a subcontractor or supplier who has provided you with a Preliminary Notice, write a joint check payable to both the contractor and the subcontractor or material supplier.

For other ways to prevent liens, visit CSLB's internet website at [www.cslb.ca.gov](http://www.cslb.ca.gov) or call CSLB at 800-321-CSLB (2752).

**REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING A LIEN PLACED ON YOUR HOME.** This can mean that you may have to pay twice, or face the forced sale of your home to pay what you owe."

(5) The following notice shall be provided in at least 12-point typeface:

"Information about the Contractors State License Board (CSLB): CSLB is the state consumer protection agency that licenses and regulates construction contractors.

Contact CSLB for information about the licensed contractor you are considering, including information about disclosable complaints, disciplinary actions, and civil judgments that are reported to CSLB.

Use only licensed contractors. If you file a complaint against a licensed contractor within the legal deadline (usually four years), CSLB has authority to investigate the complaint. If you use an unlicensed contractor, CSLB may not be able to help you resolve your complaint. Your only remedy may be in civil court, and you may be liable for damages arising out of any injuries to the unlicensed contractor or the unlicensed contractor's employees.

For more information:

Visit CSLB's internet website at [www.cslb.ca.gov](http://www.cslb.ca.gov)

Call CSLB at 800-321-CSLB (2752)

Write CSLB at P.O. Box 26000, Sacramento, CA 95826."

(6) (A) The notice set forth in subparagraph (B) and entitled "Three-Day Right to Cancel," or entitled "Five-Day Right to Cancel" for contracts with a senior citizen, shall be provided to the buyer unless the contract is:

(i) Negotiated at the contractor's place of business.

(ii) Subject to the "Seven-Day Right to Cancel," as set forth in paragraph (7).

(iii) Subject to licensure under the Alarm Company Act (Chapter 11.6 (commencing with Section 7590)), provided the alarm company licensee complies with Sections 1689.5, 1689.6, and 1689.7 of the Civil Code, as applicable.

(B) (i) "Three-Day Right to Cancel

You, the buyer, have the right to cancel this contract within three business days. You may cancel by emailing, mailing, faxing, or delivering a written notice to the contractor at the contractor's place of business by midnight of the third business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received them, goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor's instructions on how to return the goods at the contractor's expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract."

(ii) References to "three" and "third" in the notice set forth in clause (i) shall be changed to "five" and "fifth," respectively, for a buyer who is a senior citizen.

(C) The notice required by this paragraph shall comply with all of the following:

(i) The text of the notice is at least 12-point boldface type.

(ii) The notice is in immediate proximity to a space reserved for the owner's signature.

(iii) The owner acknowledges receipt of the notice by signing and dating the notice form in the signature space.

(iv) The notice is written in the same language, e.g., Spanish, as that principally used in any oral sales presentation.

(v) The notice may be attached to the contract if the contract includes, in at least 12-point boldface type, a checkbox with one of the following statements, as applicable:

(I) For a contract with a senior citizen: "The law requires that the contractor give you a notice explaining your right to cancel. Initial the checkbox if the contractor has given you a 'Notice of the Five-Day Right to Cancel.'"

(II) For all other contracts: "The law requires that the contractor give you a notice explaining your right to cancel. Initial the checkbox if the contractor has given you a 'Notice of the Three-Day Right to Cancel.'"

(vi) (I) The notice shall be accompanied by a completed form in duplicate, captioned "Notice of Cancellation," which also shall be attached to the agreement or offer to purchase and be easily detachable, and which shall contain the following statement written in the same language, e.g., Spanish, as used in the contract:

"Notice of Cancellation"

**/enter date of transaction/**

**(Date)**

"You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation.

If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract."

To cancel this transaction, ~~mail~~ email, mail, or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram

to ,

/name of seller/

at

/address of seller's place of business/

not later than midnight of .

(Date)

I hereby cancel this transaction.

(Date)

(Buyer's signature)

(II) The reference to "three" in the statement set forth in subclause (I) shall be changed to "five" for a buyer who is a senior citizen.

(7) (A) The following notice entitled "Seven-Day Right to Cancel" shall be provided to the buyer for any contract that is written for the repair or restoration of residential premises damaged by any sudden or catastrophic event for which a state of emergency has been declared by the President of the United States or the Governor, or for which a local emergency has been declared by the executive officer or governing body of any city, county, or city and county:

**"Seven-Day Right to Cancel**

You, the buyer, have the right to cancel this contract within seven business days. You may cancel by emailing, mailing, faxing, or delivering a written notice to the contractor at the contractor's place of business by midnight of the seventh business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received them, goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor's instructions on how to return the goods at the contractor's expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract."

(B) The "Seven-Day Right to Cancel" notice required by this subdivision shall comply with all of the following:

(i) The text of the notice is at least 12-point boldface type.

(ii) The notice is in immediate proximity to a space reserved for the owner's signature.

(iii) The owner acknowledges receipt of the notice by signing and dating the notice form in the signature space.

(iv) The notice is written in the same language, e.g., Spanish, as that principally used in any oral sales presentation.

(v) The notice may be attached to the contract if the contract includes, in at least 12-point boldface type, a checkbox with the following statement: "The law requires that the contractor give you a notice explaining your right to cancel. Initial the checkbox if the contractor has given you a 'Notice of the Seven-Day Right to Cancel.'"

(vi) The notice shall be accompanied by a completed form in duplicate, captioned "Notice of Cancellation," which shall also be attached to the agreement or offer to purchase and be easily detachable, and which shall contain the following statement written in the same language, e.g., Spanish, as used in the contract:

"Notice of Cancellation"

/enter date of transaction/

(Date)

"You may cancel this transaction, without any penalty or obligation, within seven business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation.

If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract."

To cancel this transaction, ~~mail~~ email, mail, or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram

to ,

/name of seller/

at

/address of seller's place of business/

not later than midnight of .

(Date)

I hereby cancel this transaction.

(Date)

(Buyer's signature)

(f) The five-day right to cancel added by the act that amended paragraph (6) of subdivision (e) shall apply to contracts entered into on or after January 1, 2021.

## ~~SEC. 3.~~ SEC. 2.

Section 17511.5 of the Business and Professions Code is amended to read:

In addition to complying with the requirements of Section 17500.3, as applicable, a telephonic seller, shall, at the time the solicitation is made and prior to consummation of a sales transaction, provide all of the following information to a prospective purchaser:

(a) If the telephonic seller represents or implies that a prospective purchaser will receive, without charge therefor, certain specific items or one item from among designated items, whether the items are denominated as gifts, premiums, bonuses, prizes, or otherwise, the seller shall provide the following:

(1) The information required to be filed by subparagraphs (A) and (B) of paragraph (4) of, and paragraph (5) of, subdivision (l) of Section 17511.4. In addition, each time the telephonic seller makes reference to an item or items, the telephonic seller shall state that no purchase is necessary, and that the purchase of goods will have no greater chance of receiving the more valuable item or items than the person who does not purchase. The seller shall state, in a manner enabling a consumer to copy the information, the method, including the telephonic seller's address, for obtaining without purchase the item or items or for a chance to obtain the item or items. The provisions of Section 17537.2 of the Business and Professions Code shall apply to all offers.

(2) The complete street address of the location from which the salesperson is calling the prospective purchaser and, if different, the complete street address of the telephonic seller's principal location.

(3) The total number of individuals who have actually received from the telephonic seller, during the preceding 12 months (or if the seller has not been in business that long, during the period the telephonic

seller has been in business), the item having the greatest value and the item with the smallest odds of being received.

(b) If the telephonic seller is offering to sell any metal, stone, or mineral, the seller shall provide the following information:

(1) The complete street address of the location from which the salesperson is calling the prospective purchaser and, if different, the complete street address of the telephonic seller's principal location.

(2) When required to be filed pursuant to Section 17511.4, the information specified in subparagraphs (A) and (B) of paragraph (2) of, and paragraph (5) of, subdivision (m) of Section 17511.4.

(c) If the telephonic seller is offering to sell an interest in oil, gas, or mineral fields, wells, or exploration sites the seller shall provide the following information:

(1) The complete street address of the location from which the salesperson is calling the prospective purchaser and, if different, the complete street address of the telephonic seller's principal location.

(2) The information required to be filed by paragraphs (1), (2), and (4) of, and subparagraph (A) of paragraph (3) of, subdivision (n) of Section 17511.4.

(d) If the telephonic seller represents that office equipment or supplies being offered are offered at prices which are below those usually charged for these items, the seller shall provide the following information:

(1) The complete street address of the location from which the salesperson is calling the prospective purchaser and, if different, the complete street address of the telephonic seller's principal location.

(2) The name of the manufacturer of each of the items the telephonic seller has represented for sale and in which the prospective purchaser expresses interest.

(e) If the solicitation is a "home solicitation contract or offer" within the meaning of Section 1689.5 of the Civil Code, the seller shall comply with the following:

(1) At the time the solicitation is made, the telephonic seller shall inform the buyer orally of the following:

(A) The buyer has the right to cancel the contract or offer until midnight of the third business day after the day on which the buyer receives the product or products ordered or the notice of confirmation of services ordered. This right of cancellation begins to run from the date of the buyer's receipt of the product or products ordered or, in the case of services ordered, from the buyer's receipt of the notice of confirmation of services ordered.

(B) A written notice of cancellation will be sent with the product or products ordered or, in the case of services, the notice of cancellation shall accompany a notice of confirmation that shall be sent to the purchaser immediately following the telephonic agreement to purchase those services.

(2) The telephonic seller shall provide the buyer with a written notice of cancellation that shall accompany and be attached to any product or products sent to the purchaser in response to a telephone solicitation or, in the case of services, shall accompany a notice of confirmation of the agreement to purchase services. The notice of cancellation shall be in duplicate, captioned "Notice of Buyer's Right of Cancellation," which shall be separate from or easily detachable from any agreement or offer to purchase which accompanies the product or products or notice of confirmation, and shall contain, in type of at least 10-point, the following cancellation statement, and no other information or statement, written in the same language used in the telephone solicitation:

#### **"NOTICE OF BUYER'S RIGHT OF CANCELLATION"**

You may cancel this transaction, without any penalty or obligation, within three business days following your receipt of this notice of cancellation and the receipt of any products, or in the case of services, within three business days following receipt of the attached notice of confirmation.

If you cancel, any payments made by you or authorized by you, pursuant to any telephonic solicitation and purchase agreement shall be returned to you within 10 days following receipt by the seller of your cancellation notice.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract, agreement, or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation.

If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for the performance of all obligations under the contract.

To cancel this transaction, ~~mail~~ *email, mail*, or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram to \_\_\_\_\_ (name of seller), at \_\_\_\_\_ (address of seller's place of business) not later than midnight of the third business day after receipt of the products and this notice of cancellation.

I HEREBY CANCEL THIS TRANSACTION.

DATE \_\_\_\_\_

BUYER'S SIGNATURE \_\_\_\_\_

### ~~SEC. 4.~~ *SEC. 3.*

Section 1689.6 of the Civil Code is amended to read:

(a) (1) Except for a contract written pursuant to Section 7151.2 or 7159.10 of the Business and Professions Code, in addition to any other right to revoke an offer, the buyer has the right to cancel a home solicitation contract or offer until midnight of the third business day, or until midnight of the fifth business day if the buyer is a senior citizen, after the day on which the buyer signs an agreement or offer to purchase which complies with Section 1689.7.

(2) In addition to any other right to revoke an offer, the buyer has the right to cancel a home solicitation contract written pursuant to Section 7151.2 of the Business and Professions Code until midnight of the third business day, or until midnight of the fifth business day if the buyer is a senior citizen, after the buyer receives a signed and dated copy of the contract or offer to purchase that complies with Section 1689.7 of this code.

(3) (A) In addition to any other right to revoke an offer, the buyer has the right to cancel a home solicitation contract or offer to purchase written pursuant to Section 7159.10 of the Business and Professions Code, until the buyer receives a signed and dated copy of a service and repair contract that complies with the contract requirements specified in Section 7159.10 of the Business and Professions Code and the work commences.

(B) For any contract written pursuant to Section 7159.10 of the Business and Professions Code, or otherwise presented to the buyer as a service and repair contract, unless all of the conforming requirements listed under subdivision (a) of that section are met, the requirements set forth under Section 7159 of the Business and Professions Code shall be applicable, regardless of the aggregate contract price, including the right to cancel as set forth under this section.

(4) The five-day right to cancel added by the act that amended paragraphs (1) and (2) shall apply to contracts entered into, or offers to purchase conveyed, on or after January 1, 2021.

(b) In addition to any other right to revoke an offer, any buyer has the right to cancel a home solicitation contract or offer for the purchase of a personal emergency response unit until midnight of the seventh business day after the day on which the buyer signs an agreement or offer to purchase which complies with Section 1689.7. This subdivision shall not apply to a personal emergency response unit installed with, and as part of, a home security alarm system subject to the Alarm Company Act (Chapter 11.6 (commencing with Section 7590) of Division 3 of the Business and Professions Code) which has two or more stationary protective devices used to enunciate an intrusion or fire and is installed by an alarm company operator operating under a current license issued pursuant to the Alarm Company Act, which shall instead be subject to subdivision (a).

(c) In addition to any other right to revoke an offer, a buyer has the right to cancel a home solicitation contract or offer for the repair or restoration of residential premises damaged by a disaster that was not void pursuant to Section 1689.14, until midnight of the seventh business day after the buyer signs and dates the contract unless the provisions of Section 1689.15 are applicable.

(d) Cancellation occurs when the buyer gives written notice of cancellation to the seller at the address *or email address* specified in the agreement or offer.

(e) Notice of cancellation, if given by mail, is effective when deposited in the mail properly addressed with postage prepaid.

(f) Notice of cancellation given by the buyer need not take the particular form as provided with the contract or offer to purchase and, however expressed, is effective if it indicates the intention of the buyer not to be bound by the home solicitation contract or offer.

(g) "Personal emergency response unit," for purposes of this section, means an in-home radio transmitter device or two-way radio device generally, but not exclusively, worn on a neckchain, wrist strap, or clipped to clothing, and connected to a telephone line through which a monitoring station is alerted of an emergency and emergency assistance is summoned.

#### ~~SEC. 5.~~ **SEC. 4.**

Section 1689.7 of the Civil Code is amended to read:

(a) (1) Except for contracts written pursuant to Sections 7151.2 and 7159.10 of the Business and Professions Code, in a home solicitation contract or offer, the buyer's agreement or offer to purchase shall be written in the same language, e.g., Spanish, as principally used in the oral sales presentation, shall be dated, shall be signed by the buyer, and except as provided in paragraph (2), shall contain in immediate proximity to the space reserved for the buyer's signature, a conspicuous statement in a size equal to at least 10-point boldface type, as follows:

(A) For a buyer who is a senior citizen: "You, the buyer, may cancel this transaction at any time prior to midnight of the fifth business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

(B) For all other buyers: "You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

(2) The statement required pursuant to this subdivision for a home solicitation contract or offer for the purchase of a personal emergency response unit, as defined in Section 1689.6, that is not installed with and as part of a home security alarm system subject to the Alarm Company Act (Chapter 11.6 (commencing with Section 7590) of Division 3 of the Business and Professions Code) that has two or more stationary protective devices used to enunciate an intrusion or fire and is installed by an alarm company operator operating under a current license issued pursuant to the Alarm Company Act, is as follows: "You, the buyer, may cancel this transaction at any time prior to midnight of the seventh business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

(3) Except for contracts written pursuant to Sections 7151.2 and 7159.10 of the Business and Professions Code, the statement required pursuant to this subdivision for the repair or restoration of residential premises damaged by a disaster pursuant to subdivision (c) of Section 1689.6 is as follows: "You, the buyer, may cancel this transaction at any time prior to midnight of the seventh business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

(4) (A) A home solicitation contract written pursuant to Section 7151.2 of the Business and Professions Code shall be written in the same language, e.g., Spanish, as principally used in the oral sales presentation. The contract, or an attachment to the contract that is subject to Section 7159 of the Business and Professions Code shall include in immediate proximity to the space reserved for the buyer's signature, the following statement in a size equal to at least 12-point boldface type, which shall be dated and signed by the buyer:

#### **"Three-Day Right to Cancel**

You, the buyer, have the right to cancel this contract within three business days. You may cancel by ~~e-mailing~~, **e-mailing**, mailing, faxing, or delivering a written notice to the contractor at the contractor's place of business by midnight of the third business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received it, any goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor's instructions on how to return the goods at the contractor's expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to



the contractor and fail to do so, then you remain liable for performance of all obligations under the contract.”

(B) References to “three” and “third” in the statement set forth in subparagraph (A) shall be changed to “five” and “fifth,” respectively, for a buyer who is a senior citizen.

(b) The agreement or offer to purchase shall contain on the first page, in a type size no smaller than that generally used in the body of the document, the following: (1) the ~~name-~~ *name*, *address*, and *email* address of the seller to which the notice is to be ~~mailed, and-~~ *sent*, (2) the date the buyer signed the agreement or offer to ~~purchase-~~ *purchase*, and (3) *the telephone number of a support line to aid in completing the “Notice of Cancellation.”*

(c) (1) Except for contracts written pursuant to Sections 7151.2 and 7159.10 of the Business and Professions Code, or except as provided in subdivision (d), the agreement or offer to purchase shall be accompanied by a completed form in duplicate, captioned “Notice of Cancellation” which shall be attached to the agreement or offer to purchase and be easily detachable, and which shall contain in type of at least 10-point the following statement written in the same language, e.g., Spanish, as used in the contract:

“Notice of Cancellation”

/enter date of transaction/

(Date)

“You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller’s expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation.

If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.”

To cancel this transaction, ~~mail-~~ *email*, *mail*, or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram

to \_\_\_\_\_ /name of seller/ \_\_\_\_\_ ,

at \_\_\_\_\_ /address of seller’s place of business/ \_\_\_\_\_

not later than midnight of (Date).

I hereby cancel this transaction. \_\_\_\_\_ (Date) \_\_\_\_\_

\_\_\_\_\_ (Buyer’s signature)

(2) The reference to “three” in the statement set forth in paragraph (1) shall be changed to “five” for a buyer who is a senior citizen.

(d) Any agreement or offer to purchase a personal emergency response unit, as defined in Section 1689.6, which is not installed with and as part of a home security alarm system subject to the Alarm Company Act which has two or more stationary protective devices used to enunciate an intrusion or fire and is installed by an alarm company operator operating under a current license issued pursuant to the Alarm Company Act, shall be subject to the requirements of subdivision (c), and shall be accompanied by the “Notice of Cancellation” required by subdivision (c), except that the first paragraph of that notice shall be deleted and replaced with the following paragraph:



You may cancel this transaction, without any penalty or obligation, within seven business days from the above date.

(e) A home solicitation contract written pursuant to Section 7151.2 of the Business and Professions Code for the repair or restoration of residential premises damaged by a disaster that is subject to subdivision (c) of Section 1689.6, shall be written in the same language, e.g., Spanish, as principally used in the oral sales presentation. The contract, or an attachment to the contract that is subject to Section 7159 of the Business and Professions Code shall include, in immediate proximity to the space reserved for the buyer's signature, the following statement in a size equal to at least 12-point boldface type, which shall be signed and dated by the buyer:

#### **"Seven-Day Right to Cancel**

You, the buyer, have the right to cancel this contract within seven business days. You may cancel by ~~e-mailing~~, ~~emailing~~, mailing, faxing, or delivering a written notice to the contractor at the contractor's place of business by midnight of the seventh business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received it, any goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor's instructions on how to return the goods at the contractor's expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract."

(f) The seller shall provide the buyer with a copy of the contract or offer to purchase and the attached notice of cancellation, and shall inform the buyer orally of the buyer's right to cancel and the requirement that cancellation be in writing, at the time the home solicitation contract or offer is executed.

(g) Until the seller has complied with this section the buyer may cancel the home solicitation contract or offer.

(h) "Contract or sale" as used in subdivision (c) means "home solicitation contract or offer" as defined by Section 1689.5.

(i) The five-day right to cancel added by the act that added subparagraph (A) to paragraph (1) and subparagraph (B) to paragraph (4) of subdivision (a), and paragraph (2) to subdivision (c) applies to contracts, or offers to purchase conveyed, entered into, on or after January 1, 2021.

#### **~~SEC. 7.~~ SEC. 5.**

Section 1689.20 of the Civil Code is amended to read:

(a) (1) In addition to any other right to revoke an offer, the buyer has the right to cancel a seminar sales solicitation contract or offer until midnight of the third business day, or until midnight of the fifth business day if the buyer is a senior citizen, after the day on which the buyer signs an agreement or offer to purchase which complies with Section 1689.21.

(2) The five-day right to cancel added by the act that amended paragraph (1) shall apply to contracts entered into, or offers to purchase conveyed, on or after January 1, 2021.

(b) Cancellation occurs when the buyer gives written notice of cancellation to the seller at the address ~~or email address~~ specified in the agreement or offer.

(c) Notice of cancellation, if given by mail, is effective when deposited in the mail properly addressed with postage prepaid.

(d) Notice of cancellation given by the buyer need not take the particular form as provided with the contract or offer to purchase and, however expressed, is effective if it indicates the intention of the buyer not to be bound by the seminar sales solicitation contract or offer.

#### **~~SEC. 8.~~ SEC. 6.**

Section 1689.21 of the Civil Code is amended to read:

(a) In a seminar sales solicitation contract or offer, the buyer's agreement or offer to purchase shall be written in the same language, e.g., Spanish, as principally used in the oral sales presentation, shall be dated, signed by the buyer, and shall contain in immediate proximity to the space reserved for the buyer's signature, a conspicuous statement in a size equal to at least 10-point bold type, as follows:

(1) For a buyer who is a senior citizen: "You, the buyer, may cancel this transaction at any time prior to midnight of the fifth business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

(2) For all other buyers: "You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

(b) The agreement or offer to purchase shall contain on the first page, in a type size no smaller than that generally used in the body of the document, each of the following:

(1) The ~~name~~ name, address, and email address of the seller to which the notice is to be mailed. sent.

(2) The date the buyer signed the agreement or offer to purchase.

(3) *The telephone number of a support line to aid in completing the "Notice of Cancellation."*

(c) (1) The agreement or offer to purchase shall be accompanied by a completed form in duplicate, captioned "Notice of Cancellation," which shall be attached to the agreement or offer to purchase and be easily detachable, and which shall contain in type of at least 10-point, the following statement written in the same language, e.g., Spanish, as used in the contract:

"Notice of Cancellation"

/enter date of transaction/ \_\_\_\_\_

(Date) \_\_\_\_\_

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation.

If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, ~~mail~~ email, mail, or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram to

\_\_\_\_\_ at

/name of seller//Address of sellers place of business/

not later than midnight of

\_\_\_\_\_ (Date)

I hereby cancel this transaction

\_\_\_\_\_ (Date)

(Buyer's signature) \_\_\_\_\_

(2) The reference to "three" in the statement set forth in paragraph (1) shall be changed to "five" for a buyer who is a senior citizen.

(d) The seller shall provide the buyer with a copy of the contract or offer to purchase and the attached notice of cancellation, and shall inform the buyer orally of the buyer's right to cancel at the time the seminar sales solicitation contract or offer is executed.

(e) Until the seller has complied with this section, the buyer may cancel the seminar sales solicitation contract or offer.

(f) "Contract or sale" as used in subdivision (c), means "seminar sales solicitation contract or offer" as defined by Section 1689.24.

(g) The five-day right to cancel added by the act that added paragraph (1) to subdivision (a) and added paragraph (2) to subdivision (c) shall apply to contracts entered into or offers to purchase conveyed on or after January 1, 2021.

# SB 81 - (A) Amends the Law

## SECTION 1.

Section 56.05 of the Civil Code is amended to read:

For purposes of this part:

- (a) "Authorization" means permission granted in accordance with Section 56.11 or 56.21 for the disclosure of medical information.
- (b) "Authorized recipient" means a person who is authorized to receive medical information pursuant to Section 56.10 or 56.20.
- (c) "Confidential communications request" means a request by a subscriber or enrollee that health care service plan communications containing medical information be communicated to them at a specific mail or email address or specific telephone number, as designated by the subscriber or enrollee.
- (d) "Contractor" means a person or entity that is a medical group, independent practice association, pharmaceutical benefits manager, or a medical service organization and is not a health care service plan or provider of health care. "Contractor" does not include insurance institutions as defined in subdivision (k) of Section 791.02 of the Insurance Code or pharmaceutical benefits managers licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).
- (e) "Enrollee" has the same meaning as that term is defined in Section 1345 of the Health and Safety Code.
- (f) "Expiration date or event" means a specified date or an occurrence relating to the individual to whom the medical information pertains or the purpose of the use or disclosure, after which the provider of health care, health care service plan, pharmaceutical company, or contractor is no longer authorized to disclose the medical information.
- (g) "Health care service plan" means an entity regulated pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).
- (h) "Licensed health care professional" means a person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, the Osteopathic Initiative Act or the Chiropractic Initiative Act, or Division 2.5 (commencing with Section 1797) of the Health and Safety Code.
- (i) "Marketing" means to make a communication about a product or service that encourages recipients of the communication to purchase or use the product or service.  
"Marketing" does not include any of the following:
  - (1) Communications made orally or in writing for which the communicator does not receive direct or indirect remuneration, including, but not limited to, gifts, fees, payments, subsidies, or other economic benefits, from a third party for making the communication.
  - (2) Communications made to current enrollees solely for the purpose of describing a provider's participation in an existing health care provider network or health plan network of a Knox-Keene licensed health plan to which the enrollees already subscribe; communications made to current enrollees solely for the purpose of describing if, and the extent to which, a product or service, or payment for a product or service, is provided by a provider, contractor, or plan or included in a plan of benefits of a Knox-Keene licensed health plan to which the enrollees already subscribe; or communications made to plan enrollees describing the availability of more cost-effective pharmaceuticals.
  - (3) Communications that are tailored to the circumstances of a particular individual to educate or advise the individual about treatment options, and otherwise maintain the individual's adherence to a prescribed course of medical treatment, as provided in Section 1399.901 of the Health and Safety Code, for a chronic and seriously debilitating or life-threatening condition as defined in subdivisions (d) and (e) of Section 1367.21 of the Health and Safety Code, if the health care provider, contractor, or health plan receives direct or indirect remuneration, including, but not limited to, gifts, fees, payments, subsidies, or other economic benefits, from a third party for making the communication, if all of the following apply:
    - (A) The individual receiving the communication is notified in the communication in typeface no smaller than 14-point type of the fact that the provider, contractor, or health plan has been remunerated and the source of the remuneration.

(B) The individual is provided the opportunity to opt out of receiving future remunerated communications.  
(C) The communication contains instructions in typeface no smaller than 14-point type describing how the individual can opt out of receiving further communications by calling a toll-free number of the health care provider, contractor, or health plan making the remunerated communications. Further communication shall not be made to an individual who has opted out after 30 calendar days from the date the individual makes the opt-out request.

(j) "Medical information" means any individually identifiable information, in electronic or physical form, in possession of or derived from a provider of health care, health care service plan, pharmaceutical company, or contractor regarding a patient's medical history, mental health application information, reproductive or sexual health application information, *immigration status, including current and prior immigration status, place of birth*, mental or physical condition, or treatment. "Individually identifiable" means that the medical information includes or contains any element of personal identifying information sufficient to allow identification of the individual, such as the patient's name, address, electronic mail address, telephone number, or social security number, or other information that, alone or in combination with other publicly available information, reveals the identity of the individual.

(k) "Mental health application information" means information related to a consumer's inferred or diagnosed mental health or substance use disorder, as defined in Section 1374.72 of the Health and Safety Code, collected by a mental health digital service.

(l) "Mental health digital service" means a mobile-based application or internet website that collects mental health application information from a consumer, markets itself as facilitating mental health services to a consumer, and uses the information to facilitate mental health services to a consumer.

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

(n) "Pharmaceutical company" means a company or business, or an agent or representative thereof, that manufactures, sells, or distributes pharmaceuticals, medications, or prescription drugs. "Pharmaceutical company" does not include a pharmaceutical benefits manager, as included in subdivision (c), or a provider of health care.

(o) "Protected individual" means any adult covered by the subscriber's health care service plan or a minor who can consent to a health care service without the consent of a parent or legal guardian, pursuant to state or federal law. "Protected individual" does not include an individual that lacks the capacity to give informed consent for health care pursuant to Section 813 of the Probate Code.

(p) "Provider of health care" means a person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code; a person licensed pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act; a person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code; or a clinic, health dispensary, or health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Provider of health care" does not include insurance institutions as defined in subdivision (k) of Section 791.02 of the Insurance Code.

(q) "Reproductive or sexual health application information" means information about a consumer's reproductive health, menstrual cycle, fertility, pregnancy, pregnancy outcome, plans to conceive, or type of sexual activity collected by a reproductive or sexual health digital service, including, but not limited to, information from which one can infer someone's pregnancy status, menstrual cycle, fertility, hormone levels, birth control use, sexual activity, or gender identity.

(r) "Reproductive or sexual health digital service" means a mobile-based application or internet website that collects reproductive or sexual health application information from a consumer, markets itself as facilitating reproductive or sexual health services to a consumer, and uses the information to facilitate reproductive or sexual health services to a consumer.

(s) "Sensitive services" means all health care services related to mental or behavioral health, sexual and reproductive health, sexually transmitted infections, substance use disorder, gender-affirming care, and intimate partner violence, and includes services described in Sections 6924, 6925, 6926, 6927, 6928, 6929, and 6930 of the Family Code, and Sections 121020 and 124260 of the Health and Safety Code, obtained by a patient at or above the minimum age specified for consenting to the service specified in the section.

(t) "Subscriber" has the same meaning as that term is defined in Section 1345 of the Health and Safety Code.

*(u) "Immigration enforcement" means any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry or reentry to, or employment in, the United States.*

## **SEC. 2.**

Section 56.10 of the Civil Code is amended to read:

(a) A provider of health care, health care service plan, or contractor shall not disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization, except as provided in subdivision (b) or (c).

(b) A provider of health care, a health care service plan, or a contractor shall disclose medical information if the disclosure is compelled by any of the following:

(1) A court order.

(2) A board, commission, or administrative agency for purposes of adjudication pursuant to its lawful authority.

(3) A party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum, notice to appear served pursuant to Section 1987 of the Code of Civil Procedure, or any provision authorizing discovery in a proceeding before a court or administrative agency.

(4) A board, commission, or administrative agency pursuant to an investigative subpoena issued under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(5) An arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum issued under Section 1282.6 of the Code of Civil Procedure, or another provision authorizing discovery in a proceeding before an arbitrator or arbitration panel.

(6) A *valid* search warrant ~~lawfully issued~~ *issued by a judicial officer, including a magistrate,* to a governmental law enforcement agency.

(7) The patient or the patient's representative pursuant to Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(8) A medical examiner, forensic pathologist, or coroner, when requested in the course of an investigation by a medical examiner, forensic pathologist, or coroner's office for the purpose of identifying the decedent or locating next of kin, or when investigating deaths that may involve public health concerns, organ or tissue donation, child abuse, elder abuse, suicides, poisonings, accidents, sudden infant deaths, suspicious deaths, unknown deaths, or criminal deaths, or upon notification of, or investigation of, imminent deaths that may involve organ or tissue donation pursuant to Section 7151.15 of the Health and Safety Code, or when otherwise authorized by the decedent's representative. Medical information requested by a medical examiner, forensic pathologist, or coroner under this paragraph shall be limited to information regarding the patient who is the decedent and who is the subject of the investigation or who is the prospective donor and shall be disclosed to a medical examiner, forensic pathologist, or coroner without delay upon request. A medical examiner, forensic pathologist, or coroner shall not disclose the information contained in the medical record obtained pursuant to this paragraph to a third party without a court order or authorization pursuant to paragraph (4) of subdivision (c) of Section 56.11.

(9) When otherwise specifically required by law.

(c) A provider of health care or a health care service plan may disclose medical information as follows:

(1) The information may be disclosed to providers of health care, health care service plans, contractors, or other health care professionals or facilities for purposes of diagnosis or treatment of the patient. This includes, in an emergency situation, the communication of patient information by radio transmission or other means between emergency medical personnel at the scene of an emergency, or in an emergency medical transport vehicle, and emergency medical personnel at a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(2) The information may be disclosed to an insurer, employer, health care service plan, hospital service plan, employee benefit plan, governmental authority, contractor, or other person or entity responsible for paying for health care services rendered to the patient, to the extent necessary to allow responsibility for payment to be determined and payment to be made. If (A) the patient is, by reason of a comatose or other disabling medical condition, unable to consent to the disclosure of medical information and (B) no other arrangements have been made to pay for the health care services being rendered to the patient, the

information may be disclosed to a governmental authority to the extent necessary to determine the patient's eligibility for, and to obtain, payment under a governmental program for health care services provided to the patient. The information may also be disclosed to another provider of health care or health care service plan as necessary to assist the other provider or health care service plan in obtaining payment for health care services rendered by that provider of health care or health care service plan to the patient.

(3) The information may be disclosed to a person or entity that provides billing, claims management, medical data processing, or other administrative services for providers of health care or health care service plans or for any of the persons or entities specified in paragraph (2). However, that disclosed information shall not be further disclosed by the recipient in a way that would violate this part.

(4) The information may be disclosed to organized committees and agents of professional societies or of medical staffs of licensed hospitals, licensed health care service plans, professional standards review organizations, independent medical review organizations and their selected reviewers, utilization and quality control peer review organizations as established by Congress in Public Law 97-248 in 1982, contractors, or persons or organizations insuring, responsible for, or defending professional liability that a provider may incur, if the committees, agents, health care service plans, organizations, reviewers, contractors, or persons are engaged in reviewing the competence or qualifications of health care professionals or in reviewing health care services with respect to medical necessity, level of care, quality of care, or justification of charges.

(5) The information in the possession of a provider of health care or a health care service plan may be reviewed by a private or public body responsible for licensing or accrediting the provider of health care or a health care service plan. However, no patient-identifying medical information may be removed from the premises except as expressly permitted or required elsewhere by law, nor shall that information be further disclosed by the recipient in a way that would violate this part.

(6) The information may be disclosed to a medical examiner, forensic pathologist, or county coroner in the course of an investigation by a medical examiner, forensic pathologist, or coroner's office when requested for all purposes not included in paragraph (8) of subdivision (b). A medical examiner, forensic pathologist, or coroner shall not disclose the information contained in the medical record obtained pursuant to this paragraph to a third party without a court order or authorization pursuant to paragraph (4) of subdivision (c) of Section 56.11.

(7) The information may be disclosed to public agencies, clinical investigators, including investigators conducting epidemiologic studies, health care research organizations, and accredited public or private nonprofit educational or health care institutions for bona fide research purposes. However, no information so disclosed shall be further disclosed by the recipient in a way that would disclose the identity of a patient or violate this part.

(8) A provider of health care or health care service plan that has created medical information as a result of employment-related health care services to an employee conducted at the specific prior written request and expense of the employer may disclose to the employee's employer that part of the information that:

(A) Is relevant in a lawsuit, arbitration, grievance, or other claim or challenge to which the employer and the employee are parties and in which the patient has placed in issue the patient's medical history, mental or physical condition, or treatment, provided that information may only be used or disclosed in connection with that proceeding.

(B) Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit the patient's fitness to perform the patient's present employment, provided that no statement of medical cause is included in the information disclosed.

(9) Unless the provider of health care or a health care service plan is notified in writing of an agreement by the sponsor, insurer, or administrator to the contrary, the information may be disclosed to a sponsor, insurer, or administrator of a group or individual insured or uninsured plan or policy that the patient seeks coverage by or benefits from, if the information was created by the provider of health care or health care service plan as the result of services conducted at the specific prior written request and expense of the sponsor, insurer, or administrator for the purpose of evaluating the application for coverage or benefits.

(10) The information may be disclosed to a health care service plan by providers of health care that contract with the health care service plan and may be transferred between providers of health care that contract with the health care service plan, for the purpose of administering the health care service plan. Medical information shall not otherwise be disclosed by a health care service plan except in accordance with this part.



(11) This part does not prevent the disclosure by a provider of health care or a health care service plan to an insurance institution, agent, or support organization, subject to Article 6.6 (commencing with Section 791) of Chapter 1 of Part 2 of Division 1 of the Insurance Code, of medical information if the insurance institution, agent, or support organization has complied with all of the requirements for obtaining the information pursuant to Article 6.6 (commencing with Section 791) of Chapter 1 of Part 2 of Division 1 of the Insurance Code.

(12) The information relevant to the patient's condition, care, and treatment provided may be disclosed to a probate court investigator in the course of an investigation required or authorized in a conservatorship proceeding under the Guardianship-Conservatorship Law as defined in Section 1400 of the Probate Code, or to a probate court investigator, probation officer, or domestic relations investigator engaged in determining the need for an initial guardianship or continuation of an existing guardianship.

(13) The information may be disclosed to an organ procurement organization or a tissue bank processing the tissue of a decedent for transplantation into the body of another person, but only with respect to the donating decedent, for the purpose of aiding the transplant. For the purpose of this paragraph, "tissue bank" and "tissue" have the same meanings as defined in Section 1635 of the Health and Safety Code.

(14) The information may be disclosed when the disclosure is otherwise specifically authorized by law, including, but not limited to, the voluntary reporting, either directly or indirectly, to the ~~federal~~ **United States** Food and Drug Administration of adverse events related to drug products or medical device problems, or to disclosures made pursuant to subdivisions (b) and (c) of Section 11167 of the Penal Code by a person making a report pursuant to Sections 11165.9 and 11166 of the Penal Code, provided that those disclosures concern a report made by that person.

(15) Basic information, including the patient's name, city of residence, age, sex, and general condition, may be disclosed to a state-recognized or federally recognized disaster relief organization for the purpose of responding to disaster welfare inquiries.

(16) The information may be disclosed to a third party for purposes of encoding, encrypting, or otherwise anonymizing data. However, no information so disclosed shall be further disclosed by the recipient in a way that would violate this part, including the unauthorized manipulation of coded or encrypted medical information that reveals individually identifiable medical information.

(17) For purposes of disease management programs and services as defined in Section 1399.901 of the Health and Safety Code, information may be disclosed as follows: (A) to an entity contracting with a health care service plan or the health care service plan's contractors to monitor or administer care of enrollees for a covered benefit, if the disease management services and care are authorized by a treating physician, or (B) to a disease management organization, as defined in Section 1399.900 of the Health and Safety Code, that complies fully with the physician authorization requirements of Section 1399.902 of the Health and Safety Code, if the health care service plan or its contractor provides or has provided a description of the disease management services to a treating physician or to the health care service plan's or contractor's network of physicians. This paragraph does not require physician authorization for the care or treatment of the adherents of a well-recognized church or religious denomination who depend solely upon prayer or spiritual means for healing in the practice of the religion of that church or denomination.

(18) The information may be disclosed, as permitted by state and federal law or regulation, to a local health department for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events, including, but not limited to, birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions, as authorized or required by state or federal law or regulation.

(19) The information may be disclosed, consistent with applicable law and standards of ethical conduct, by a psychotherapist, as defined in Section 1010 of the Evidence Code, if the psychotherapist, in good faith, believes the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a reasonably foreseeable victim or victims, and the disclosure is made to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat.

(20) The information may be disclosed as described in Section 56.103.

(21) (A) The information may be disclosed to an employee welfare benefit plan, as defined under Section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1002(1)), which is formed under Section 302(c)(5) of the Taft-Hartley Act (29 U.S.C. Sec. 186(c)(5)), to the extent that the employee welfare benefit plan provides medical care, and may also be disclosed to an entity contracting with the employee welfare benefit plan for billing, claims management, medical data processing, or other



administrative services related to the provision of medical care to persons enrolled in the employee welfare benefit plan for health care coverage, if all of the following conditions are met:

(i) The disclosure is for the purpose of determining eligibility, coordinating benefits, or allowing the employee welfare benefit plan or the contracting entity to advocate on the behalf of a patient or enrollee with a provider, a health care service plan, or a state or federal regulatory agency.

(ii) The request for the information is accompanied by a written authorization for the release of the information submitted in a manner consistent with subdivision (a) and Section 56.11.

(iii) The disclosure is authorized by and made in a manner consistent with the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191).

(iv) Any information disclosed is not further used or disclosed by the recipient in any way that would directly or indirectly violate this part or the restrictions imposed by Part 164 of Title 45 of the Code of Federal Regulations, including the manipulation of the information in any way that might reveal individually identifiable medical information.

(B) For purposes of this paragraph, Section 1374.8 of the Health and Safety Code shall not apply.

(22) Information may be disclosed pursuant to subdivision (a) of Section 15633.5 of the Welfare and Institutions Code by a person required to make a report pursuant to Section 15630 of the Welfare and Institutions Code, provided that the disclosure under subdivision (a) of Section 15633.5 concerns a report made by that person. Covered entities, as they are defined in Section 160.103 of Title 45 of the Code of Federal Regulations, shall comply with the requirements of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy rule pursuant to subsection (c) of Section 164.512 of Title 45 of the Code of Federal Regulations if the disclosure is not for the purpose of public health surveillance, investigation, intervention, or reporting an injury or death.

(23) The information may be disclosed to a school-linked services coordinator pursuant to a written authorization between the health provider and the patient or client that complies with the federal Health Insurance Portability and Accountability Act of 1996.

(24) Mental health records, as defined in subdivision (c) of Section 5073 of the Penal Code, may be disclosed by a county correctional facility, county medical facility, state correctional facility, or state hospital, as required by Section 5073 of the Penal Code.

(d) Except to the extent expressly authorized by a patient, enrollee, or subscriber, or as provided by subdivisions (b) and (c), a provider of health care, health care service plan, contractor, or corporation and its subsidiaries and affiliates shall not intentionally share, sell, use for marketing, or otherwise use medical information for a purpose not necessary to provide health care services to the patient.

(e) Except to the extent expressly authorized by a patient or enrollee or subscriber or as provided by subdivisions (b) and (c), a contractor or corporation and its subsidiaries and affiliates shall not further disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan or insurer or self-insured employer received under this section to a person or entity that is not engaged in providing direct health care services to the patient or the patient's provider of health care or health care service plan or insurer or self-insured employer.

*(f) Except to the extent expressly authorized by a patient, enrollee, or subscriber, or as required by subdivision (b), a provider of health care, health care service plan, contractor, or corporation and its subsidiaries and affiliates shall not disclose medical information.*

~~(f)~~ (g) For purposes of this section, the following definitions apply:

(1) "Medical examiner, forensic pathologist, or coroner" means a coroner or deputy coroner, as described in subdivision (c) of Section 830.35 of the Penal Code, or a licensed physician who currently performs official autopsies on behalf of a county coroner's office or a medical examiner's office, whether as a government employee or under contract to that office.

(2) "School-linked services coordinator" means an individual located on a school campus or under contract by a county behavioral health provider agency for the treatment and health care operations and referrals of students and their families that holds any of the following:

(A) A services credential with a specialization in pupil personnel services, as described in Section 44266 of the Education Code.

(B) A services credential with a specialization in health authorizing service as a school nurse, as described in Section 44877 of the Education Code.

(C) A license to engage in the practice of marriage and family therapy issued pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

- (D) A license to engage in the practice of educational psychology issued pursuant to Chapter 13.5 (commencing with Section 4989.10) of Division 2 of the Business and Professions Code.
- (E) A license to engage in the practice of professional clinical counseling issued pursuant to Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code.

### **SEC. 3.**

*Chapter 1.5 (commencing with Section 1249) is added to Division 2 of the Health and Safety Code, to read:*

#### **CHAPTER 1.5. Patient Access and Protection**

**1249.** (a) *A health care provider entity shall, to the extent possible, establish or amend procedures for monitoring and receiving visitors to health care provider entities consistent with this chapter. Health care provider entities are encouraged to post a "notice to authorities" at facility entrances.*

(b) *When circumstances allow, health care provider entity personnel shall immediately notify health care provider entity management, administration, or legal counsel of any request for access to a health care provider entity site or patient for immigration enforcement, and to provide any requests for review of health care provider entity documents, including through a lawfully issued subpoena, warrant, or court order. If a request is made to access a health care provider entity site or patient, including to obtain information about a patient or their family, for immigration enforcement, health care provider entity personnel shall, to the extent possible, direct such request to the designated health care provider entity management, administrator, or legal counsel.*

**1249.1.** (a) *To enhance privacy available to facility users and promote a safe environment conducive to the facility's mission and patient care, a health care provider entity is encouraged to designate areas where patients are receiving treatment or care, where a patient is discussing protected health information, or that are not otherwise open to the public as nonpublic. The facility is encouraged to designate these areas through mapping, signage, key entry, policy, or a combination of those.*

(b) *To the extent permitted by state and federal law, a health care provider entity and its personnel shall not, to the extent possible, grant access to the nonpublic areas of the facility for immigration enforcement without a valid judicial warrant or court order.*

(c) *A health care provider entity and its personnel shall, to the extent possible, have the denial of permission for access to nonpublic areas of the facility pursuant to subdivision (b) witnessed and documented by at least one health care provider entity personnel.*

(d) *Health care provider entities shall inform staff and relevant volunteers on how to respond to requests relating to immigration enforcement that grants access to health care provider entity sites or to patients.*

**1249.2.** *For purposes of this chapter, "health care provider entity" includes all of the following:*

(a) *Health facilities as defined in Section 1250.*

(b) *Clinics as defined in Section 1200 and 1200.1, a clinic licensed pursuant to Section 1204, and a clinic exempt from licensure pursuant to subdivisions (b) and (h) of Section 1206.*

(c) *A physician organization as defined in subdivision (p) of Section 127500.2.*

(d) *Providers as defined in subdivision (q) of Section 127500.2.*

(e) *Integrated health care delivery systems as defined in Section 1182.14 of the Labor Code.*

**1249.3.** *This chapter shall apply to all health care provider entities that meet any of the following criteria:*

(a) *Health care provider entities operated by the state or a political subdivision of the state.*

(b) *Health care provider entities that provide services related to physical or mental health and wellness, education, or access to justice, including the University of California.*

(c) *Health care provider entities that receive state funding.*

(d) *All other health care provider entities.*

**1249.4.** *For purposes of this chapter, "immigration enforcement" means any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any*

*federal criminal immigration law that penalizes a person's presence in, entry or reentry to, or employment in, the United States.*

**1249.5.** *Health care provider entities shall have 45 days from the effective date of this chapter to comply with the requirements contained herein.*

**1249.6.** *The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.*

**SEC. 4.**

*No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution. However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.*

**SEC. 5.**

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

*To ensure that vulnerable families and their children are able to access their medical and health care services and needs without fear of deportation, harassment, or intimidation, it is necessary that this act take effect immediately.*

# SB 402 - (I) Amends the Law

## SECTION 1.

Section 2290.5 of the Business and Professions Code is amended to read:

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

(1) "Asynchronous store and forward" means the transmission of a patient's medical information from an originating site to the health care provider at a distant site.

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

(3) "Health care provider" means any of the following:

(A) A person who is licensed under this division.

(B) An associate marriage and family therapist or marriage and family therapist trainee functioning pursuant to Section 4980.43.3.

(C) A qualified autism service provider ~~or qualified autism service professional~~ certified by a national entity ~~pursuant to Section 1374.73 of the Health and Safety Code and Section 10144.51 of the Insurance Code, as defined in Section 4999.200 or a qualified autism service professional as defined in Section 4999.201.~~

(D) An associate clinical social worker functioning pursuant to Section 4996.23.2.

(E) An associate professional clinical counselor or clinical counselor trainee functioning pursuant to Section 4999.46.3.

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

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

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

(b) Before the delivery of health care via telehealth, the health care provider initiating the use of telehealth shall inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health. The consent shall be documented.

(c) This section does not preclude a patient from receiving in-person health care delivery services during a specified course of health care and treatment after agreeing to receive services via telehealth.

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

(e) This section does not alter the scope of practice of a health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

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

(g) All laws and regulations governing professional responsibility, unprofessional conduct, and standards of practice that apply to a health care provider under the health care provider's license shall apply to that health care provider while providing telehealth services.

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

(i) (1) Notwithstanding any other law and for purposes of this section, the governing body of the hospital whose patients are receiving the telehealth services may grant privileges to, and verify and approve credentials for, providers of telehealth services based on its medical staff recommendations that rely on information provided by the distant-site hospital or telehealth entity, as described in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

(2) By enacting this subdivision, it is the intent of the Legislature to authorize a hospital to grant privileges to, and verify and approve credentials for, providers of telehealth services as described in paragraph (1).

(3) For the purposes of this subdivision, “telehealth” shall include “telemedicine” as the term is referenced in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

## **SEC. 2.**

*Chapter 17 (commencing with Section 4999.200) is added to Division 2 of the Business and Professions Code, to read:*

### **CHAPTER 17. Qualified Autism Service Providers**

**4999.200.** “Qualified autism service provider” means an individual who meets either of the following criteria:

(a) Is certified by a national entity, such as the Behavior Analyst Certification Board, with a certification that is accredited by the National Commission for Certifying Agencies who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the individual who is nationally certified.

(b) Is licensed as a physician and surgeon, physical therapist, occupational therapist, psychologist, marriage and family therapist, educational psychologist, clinical social worker, professional clinical counselor, speech-language pathologist, or audiologist, pursuant to Division 2 (commencing with Section 500), and who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the licensee.

**4999.201.** “Qualified autism service professional” means an individual who meets all of the following criteria:

(a) Provides behavioral health treatment, which may include clinical case management and case supervision under the direction and supervision of a qualified autism service provider.

(b) Is supervised by a qualified autism service provider.

(c) Provides treatment pursuant to a treatment plan developed and approved by the qualified autism service provider.

(d) Is either of the following:

(1) A behavioral service provider who meets the education and experience qualifications described in Section 54342 of Title 17 of the California Code of Regulations for an Associate Behavior Analyst, Behavior Analyst, Behavior Management Assistant, Behavior Management Consultant, or Behavior Management Program.

(2) (A) A psychological associate, an associate marriage and family therapist, an associate clinical social worker, or an associate professional clinical counselor, as defined and regulated by the Board of Behavioral Sciences or the Board of Psychology.

(B) If an individual meets the requirement described in subparagraph (A), they shall also meet the criteria set forth in the regulations adopted pursuant to Section 4686.4 of the Welfare and Institutions Code for a Behavioral Health Professional.

(e) (1) Has training and experience in providing services for pervasive developmental disorder or autism pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.

(f) Is employed by the qualified autism service provider or an entity or group that employs qualified autism service providers responsible for the autism treatment plan.

**4999.202.** “Qualified autism service paraprofessional” means an unlicensed and uncertified individual who meets all of the following criteria:

(a) Is supervised by a qualified autism service provider or qualified autism service professional at a level of clinical supervision that meets professionally recognized standards of practice.

(b) Provides treatment and implements services pursuant to a treatment plan that was developed and approved by the qualified autism service provider.

(c) Meets the education and training qualifications described in Section 54342 of Title 17 of the California Code of Regulations.

(d) Has adequate education, training, and experience, as certified by a qualified autism service provider or an entity or group that employs qualified autism service providers.

(e) Is employed by the qualified autism service provider or an entity or group that employs qualified autism service providers responsible for the autism treatment plan.

### SEC. 3.

Section 1367.27 of the Health and Safety Code is amended to read:

(a) Commencing July 1, 2016, a health care service plan shall publish and maintain a provider directory or directories with information on contracting providers that deliver health care services to the plan's enrollees, including those that accept new patients. A provider directory shall not list or include information on a provider that is not currently under contract with the plan.

(b) A health care service plan shall provide the directory or directories for the specific network offered for each product using a consistent method of network and product naming, numbering, or other classification method that ensures the public, enrollees, potential enrollees, the department, and other state or federal agencies can easily identify the networks and plan products in which a provider participates. By July 31, 2017, or 12 months after the date provider directory standards are developed under subdivision (k), whichever occurs later, a health care service plan shall use the naming, numbering, or classification method developed by the department pursuant to subdivision (k).

(c) (1) An online provider directory or directories shall be available on the plan's ~~Internet Web site~~ [internet website](#) to the public, potential enrollees, enrollees, and providers without any restrictions or limitations. The directory or directories shall be accessible without any requirement that an individual seeking the directory information demonstrate coverage with the plan, indicate interest in obtaining coverage with the plan, provide a member identification or policy number, provide any other identifying information, or create or access an account.

(2) The online provider directory or directories shall be accessible on the plan's public ~~Internet Web site~~ [internet website](#) through an identifiable link or tab and in a manner that is accessible and searchable by enrollees, potential enrollees, the public, and providers. By July 31, 2017, or 12 months after the date provider directory standards are developed under subdivision (k), whichever occurs later, the plan's public ~~Internet Web site~~ [internet website](#) shall allow provider searches by, at a minimum, name, practice address, city, ZIP Code, California license number, National Provider Identifier number, admitting privileges to an identified hospital, product, tier, provider language or languages, provider group, hospital name, facility name, or clinic name, as appropriate.

(d) (1) A health care service plan shall allow enrollees, potential enrollees, providers, and members of the public to request a printed copy of the provider directory or directories by contacting the plan through the plan's toll-free telephone number, electronically, or in writing. A printed copy of the provider directory or directories shall include the information required in subdivisions (h) and (i). The printed copy of the provider directory or directories shall be provided to the requester by mail postmarked no later than five business days following the date of the request and may be limited to the geographic region in which the requester resides or works or intends to reside or work.

(2) A health care service plan shall update its printed provider directory or directories at least quarterly, or more frequently, if required by federal law.

(e) (1) The plan shall update the online provider directory or directories, at least weekly, or more frequently, if required by federal law, when informed of and upon confirmation by the plan of any of the following:

(A) A contracting provider is no longer accepting new patients for that product, or an individual provider within a provider group is no longer accepting new patients.

(B) A provider is no longer under contract for a particular plan product.

(C) A provider's practice location or other information required under subdivision (h) or (i) has changed.

(D) Upon completion of the investigation described in subdivision (o), a change is necessary based on an enrollee complaint that a provider was not accepting new patients, was otherwise not available, or whose contact information was listed incorrectly.

(E) Any other information that affects the content or accuracy of the provider directory or directories.

(2) Upon confirmation of any of the following, the plan shall delete a provider from the directory or directories when:

(A) A provider has retired or otherwise has ceased to practice.

(B) A provider or provider group is no longer under contract with the plan for any reason.

(C) The contracting provider group has informed the plan that the provider is no longer associated with the provider group and is no longer under contract with the plan.

(f) The provider directory or directories shall include both an email address and a telephone number for members of the public and providers to notify the plan if the provider directory information appears to be



inaccurate. This information shall be disclosed prominently in the directory or directories and on the plan's ~~Internet Web site~~. [internet website](#).

(g) The provider directory or directories shall include the following disclosures informing enrollees that they are entitled to both of the following:

(1) Language interpreter services, at no cost to the enrollee, including how to obtain interpretation services in accordance with Section 1367.04.

(2) Full and equal access to covered services, including enrollees with disabilities as required under the federal Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973.

(h) A full service health care service plan and a specialized mental health plan shall include all of the following information in the provider directory or directories:

(1) The provider's name, practice location or locations, and contact information.

(2) Type of practitioner.

(3) National Provider Identifier number.

(4) California license number and type of license.

(5) The area of specialty, including board certification, if any.

(6) The provider's office email address, if available.

(7) The name of each affiliated provider group currently under contract with the plan through which the provider sees enrollees.

(8) A listing for each of the following providers that are under contract with the plan:

(A) For physicians and surgeons, the provider group, and admitting privileges, if any, at hospitals contracted with the plan.

(B) Nurse practitioners, physician assistants, psychologists, acupuncturists, optometrists, podiatrists, chiropractors, licensed clinical social workers, marriage and family therapists, professional clinical counselors, qualified autism service providers, as defined in Section ~~1374.73~~, [4999.200 of the Business and Professions Code](#), nurse midwives, and dentists.

(C) For federally qualified health centers or primary care clinics, the name of the federally qualified health center or clinic.

(D) For ~~any a~~ provider described in subparagraph (A) or (B) who is employed by a federally qualified health center or primary care clinic, and to the extent their services may be accessed and are covered through the contract with the plan, the name of the provider, and the name of the federally qualified health center or clinic.

(E) Facilities, including, but not limited to, general acute care hospitals, skilled nursing facilities, urgent care clinics, ambulatory surgery centers, inpatient hospice, residential care facilities, and inpatient rehabilitation facilities.

(F) Pharmacies, clinical laboratories, imaging centers, and other facilities providing contracted health care services.

(9) The provider directory or directories may note that authorization or referral may be required to access some providers.

(10) Non-English language, if any, spoken by a health care provider or other medical professional as well as non-English language spoken by a qualified medical interpreter, in accordance with Section 1367.04, if any, on the provider's staff.

(11) Identification of providers who no longer accept new patients for some or all of the plan's products.

(12) The network tier to which the provider is assigned, if the provider is not in the lowest tier, as applicable. Nothing in this section shall be construed to require the use of network tiers other than contract and noncontracting tiers.

(13) All other information necessary to conduct a search pursuant to paragraph (2) of subdivision (c).

(i) A vision, dental, or other specialized health care service plan, except for a specialized mental health plan, shall include all of the following information for each provider directory or directories used by the plan for its networks:

(1) The provider's name, practice location or locations, and contact information.

(2) Type of practitioner.

(3) National Provider Identifier number.

(4) California license number and type of license, if applicable.

(5) The area of specialty, including board certification, or other accreditation, if any.

(6) The provider's office email address, if available.

- (7) The name of each affiliated provider group or specialty plan practice group currently under contract with the plan through which the provider sees enrollees.
- (8) The names of each allied health care professional to the extent there is a direct contract for those services covered through a contract with the plan.
- (9) The non-English language, if any, spoken by a health care provider or other medical professional as well as non-English language spoken by a qualified medical interpreter, in accordance with Section 1367.04, if any, on the provider's staff.
- (10) Identification of providers who no longer accept new patients for some or all of the plan's products.
- (11) All other applicable information necessary to conduct a provider search pursuant to paragraph (2) of subdivision (c).
- (j) (1) The contract between the plan and a provider shall include a requirement that the provider inform the plan within five business days when either of the following occurs:
- (A) The provider is not accepting new patients.
- (B) If the provider had previously not accepted new patients, the provider is currently accepting new patients.
- (2) If a provider who is not accepting new patients is contacted by an enrollee or potential enrollee seeking to become a new patient, the provider shall direct the enrollee or potential enrollee to both the plan for additional assistance in finding a provider and to the department to report any inaccuracy with the plan's directory or directories.
- (3) If an enrollee or potential enrollee informs a plan of a possible inaccuracy in the provider directory or directories, the plan shall promptly investigate, and, if necessary, undertake corrective action within 30 business days to ensure the accuracy of the directory or directories.
- (k) (1) On or before December 31, 2016, the department shall develop uniform provider directory standards to permit consistency in accordance with subdivision (b) and paragraph (2) of subdivision (c) and development of a multiplan directory by another entity. Those standards shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), until January 1, 2021. No more than two revisions of those standards shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) pursuant to this subdivision.
- (2) In developing the standards under this subdivision, the department shall seek input from interested parties throughout the process of developing the standards and shall hold at least one public meeting. The department shall take into consideration any requirements for provider directories established by the federal Centers for Medicare and Medicaid Services and the State Department of Health Care Services.
- (3) By July 31, 2017, or 12 months after the date provider directory standards are developed under this subdivision, whichever occurs later, a plan shall use the standards developed by the department for each product offered by the plan.
- (l) (1) A plan shall take appropriate steps to ensure the accuracy of the information concerning each provider listed in the plan's provider directory or directories in accordance with this section, and shall, at least annually, review and update the entire provider directory or directories for each product offered. Each calendar year the plan shall notify all contracted providers described in subdivisions (h) and (i) as follows:
- (A) For individual providers who are not affiliated with a provider group described in subparagraph (A) or (B) of paragraph (8) of subdivision (h) and providers described in subdivision (i), the plan shall notify each provider at least once every six months.
- (B) For all other providers described in subdivision (h) who are not subject to the requirements of subparagraph (A), the plan shall notify its contracted providers to ensure that all of the providers are contacted by the plan at least once annually.
- (2) The notification shall include all of the following:
- (A) The information the plan has in its directory or directories regarding the provider or provider group, including a list of networks and plan products that include the contracted provider or provider group.
- (B) A statement that the failure to respond to the notification may result in a delay of payment or reimbursement of a claim pursuant to subdivision (p).
- (C) Instructions on how the provider or provider group can update the information in the provider directory or directories using the online interface developed pursuant to subdivision (m).
- (3) The plan shall require an affirmative response from the provider or provider group acknowledging that the notification was received. The provider or provider group shall confirm that the information in the



provider directory or directories is current and accurate or update the information required to be in the directory or directories pursuant to this section, including whether or not the provider or provider group is accepting new patients for each plan product.

(4) If the plan does not receive an affirmative response and confirmation from the provider that the information is current and accurate or, as an alternative, updates any information required to be in the directory or directories pursuant to this section, within 30 business days, the plan shall take no more than 15 business days to verify whether the provider's information is correct or requires updates. The plan shall document the receipt and outcome of each attempt to verify the information. If the plan is unable to verify whether the provider's information is correct or requires updates, the plan shall notify the provider 10 business days in advance of removal that the provider will be removed from the provider directory or directories. The provider shall be removed from the provider directory or directories at the next required update of the provider directory or directories after the 10-business-day notice period. A provider shall not be removed from the provider directory or directories if ~~he or she responds~~ *they respond* before the end of the 10-business-day notice period.

(5) General acute care hospitals shall be exempt from the requirements in paragraphs (3) and (4).

(m) A plan shall establish policies and procedures with regard to the regular updating of its provider directory or directories, including the weekly, quarterly, and annual updates required pursuant to this section, or more frequently, if required by federal law or guidance.

(1) The policies and procedures described under this subdivision shall be submitted by a plan annually to the department for approval and in a format described by the department pursuant to Section 1367.035.

(2) Every health care service plan shall ensure processes are in place to allow providers to promptly verify or submit changes to the information required to be in the directory or directories pursuant to this section. Those processes shall, at a minimum, include an online interface for providers to submit verification or changes electronically and shall generate an acknowledgment of receipt from the health care service plan. Providers shall verify or submit changes to information required to be in the directory or directories pursuant to this section using the process required by the health care service plan.

(3) The plan shall establish and maintain a process for enrollees, potential enrollees, other providers, and the public to identify and report possible inaccurate, incomplete, or misleading information currently listed in the plan's provider directory or directories. This process shall, at a minimum, include a telephone number and a dedicated email address at which the plan will accept these reports, as well as a hyperlink on the plan's provider directory ~~Internet Web site~~ *internet website* linking to a form where the information can be reported directly to the plan through its ~~Internet Web site~~ *internet website*.

(n) (1) This section does not prohibit a plan from requiring its provider groups or contracting specialized health care service plans to provide information to the plan that is required by the plan to satisfy the requirements of this section for each of the providers that contract with the provider group or contracting specialized health care service plan. This responsibility shall be specifically documented in a written contract between the plan and the provider group or contracting specialized health care service plan.

(2) If a plan requires its contracting provider groups or contracting specialized health care service plans to provide the plan with information described in paragraph (1), the plan shall continue to retain responsibility for ensuring that the requirements of this section are satisfied.

(3) A provider group may terminate a contract with a provider for a pattern or repeated failure of the provider to update the information required to be in the directory or directories pursuant to this section.

(4) A provider group is not subject to the payment delay described in subdivision (p) if all of the following occurs:

(A) A provider does not respond to the provider group's attempt to verify the provider's information. As used in this paragraph, "verify" means to contact the provider in writing, electronically, and by telephone to confirm whether the provider's information is correct or requires updates.

(B) The provider group documents its efforts to verify the provider's information.

(C) The provider group reports to the plan that the provider should be deleted from the provider group in the plan directory or directories.

(5) Section 1375.7, known as the Health Care Providers' Bill of Rights, applies to any material change to a provider contract pursuant to this section.

(o) (1) Whenever a health care service plan receives a report indicating that information listed in its provider directory or directories is inaccurate, the plan shall promptly investigate the reported inaccuracy and, no later than 30 business days following receipt of the report, either verify the accuracy of the information or update the information in its provider directory or directories, as applicable.

(2) When investigating a report regarding its provider directory or directories, the plan shall, at a minimum, do the following:

(A) Contact the affected provider no later than five business days following receipt of the report.

(B) Document the receipt and outcome of each report. The documentation shall include the provider's name, location, and a description of the plan's investigation, the outcome of the investigation, and any changes or updates made to its provider directory or directories.

(C) If changes to a plan's provider directory or directories are required as a result of the plan's investigation, the changes to the online provider directory or directories shall be made no later than the next scheduled weekly update, or the update immediately following that update, or sooner if required by federal law or regulations. For printed provider directories, the change shall be made no later than the next required update, or sooner if required by federal law or regulations.

(p) (1) Notwithstanding Sections 1371 and 1371.35, a plan may delay payment or reimbursement owed to a provider or provider group as specified in subparagraph (A) or (B), if the provider or provider group fails to respond to the plan's attempts to verify the provider's or provider group's information as required under subdivision (l). The plan shall not delay payment unless it has attempted to verify the provider's or provider group's information. As used in this subdivision, "verify" means to contact the provider or provider group in writing, electronically, and by telephone to confirm whether the provider's or provider group's information is correct or requires updates. A plan may seek to delay payment or reimbursement owed to a provider or provider group only after the 10-business day notice period described in paragraph (4) of subdivision (l) has lapsed.

(A) For a provider or provider group that receives compensation on a capitated or prepaid basis, the plan may delay no more than 50 percent of the next scheduled capitation payment for up to one calendar month.

(B) For any claims payment made to a provider or provider group, the plan may delay the claims payment for up to one calendar month beginning on the first day of the following month.

(2) A plan shall notify the provider or provider group 10 business days before it seeks to delay payment or reimbursement to a provider or provider group pursuant to this subdivision. If the plan delays a payment or reimbursement pursuant to this subdivision, the plan shall reimburse the full amount of any payment or reimbursement subject to delay to the provider or provider group according to either of the following timelines, as applicable:

(A) No later than three business days following the date on which the plan receives the information required to be submitted by the provider or provider group pursuant to subdivision (l).

(B) At the end of the one-calendar month delay described in subparagraph (A) or (B) of paragraph (1), as applicable, if the provider or provider group fails to provide the information required to be submitted to the plan pursuant to subdivision (l).

(3) A plan may terminate a contract for a pattern or repeated failure of the provider or provider group to alert the plan to a change in the information required to be in the directory or directories pursuant to this section.

(4) A plan that delays payment or reimbursement under this subdivision shall document each instance a payment or reimbursement was delayed and report this information to the department in a format described by the department pursuant to Section 1367.035. This information shall be submitted along with the policies and procedures required to be submitted annually to the department pursuant to paragraph (1) of subdivision (m).

(5) With respect to plans with Medi-Cal managed care contracts with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000), Chapter 8 (commencing with Section 14200), or Chapter 8.75 (commencing with Section 14591) of [Part 3 of Division 9 of the Welfare and Institutions Code](#), this subdivision shall be implemented only to the extent consistent with federal law and guidance.

(q) In circumstances where the department finds that an enrollee reasonably relied upon materially inaccurate, incomplete, or misleading information contained in a health plan's provider directory or directories, the department may require the health plan to provide coverage for all covered health care services provided to the enrollee and to reimburse the enrollee for any amount beyond what the enrollee would have paid, had the services been delivered by an in-network provider under the enrollee's plan contract. Prior to requiring reimbursement in these circumstances, the department shall conclude that the services received by the enrollee were covered services under the enrollee's plan contract. In those

circumstances, the fact that the services were rendered or delivered by a noncontracting or out-of-plan provider shall not be used as a basis to deny reimbursement to the enrollee.

(r) Whenever a plan determines as a result of this section that there has been a 10 percent change in the network for a product in a region, the plan shall file an amendment to the plan application with the department consistent with subdivision (f) of Section 1300.52 of Title 28 of the California Code of Regulations.

(s) This section applies to plans with Medi-Cal managed care contracts with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000), Chapter 8 (commencing with Section 14200), or Chapter 8.75 (commencing with Section 14591) of *Part 3 of Division 9 of the Welfare and Institutions Code* to the extent consistent with federal law and guidance and state law guidance issued after January 1, 2016. Notwithstanding any other provision to the contrary in a plan contract with the State Department of Health Care Services, and to the extent consistent with federal law and guidance and state guidance issued after January 1, 2016, a Medi-Cal managed care plan that complies with the requirements of this section shall not be required to distribute a printed provider directory or directories, except as required by paragraph (1) of subdivision (d).

(t) A health plan that contracts with multiple employer welfare agreements regulated pursuant to Article 4.7 (commencing with Section 742.20) of Chapter 1 of Part 2 of Division 1 of the Insurance Code shall meet the requirements of this section.

(u) This section shall not be construed to alter a provider's obligation to provide health care services to an enrollee pursuant to the provider's contract with the plan.

(v) As part of the department's routine examination of the fiscal and administrative affairs of a health care service plan pursuant to Section 1382, the department shall include a review of the health care service plan's compliance with subdivision (p).

(w) For purposes of this section, "provider group" means a medical group, independent practice association, or other similar group of providers.

## **SEC. 4.**

Section 1374.72 of the Health and Safety Code is amended to read:

(a) (1) Every health care service plan contract issued, amended, or renewed on or after January 1, 2021, that provides hospital, medical, or surgical coverage shall provide coverage for medically necessary treatment of mental health and substance use disorders, under the same terms and conditions applied to other medical conditions as specified in subdivision (c).

(2) For purposes of this section, "mental health and substance use disorders" means a mental health condition or substance use disorder that falls under any of the diagnostic categories listed in the mental and behavioral disorders chapter of the most recent edition of the International Classification of Diseases or that is listed in the most recent version of the Diagnostic and Statistical Manual of Mental Disorders. Changes in terminology, organization, or classification of mental health and substance use disorders in future versions of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders or the World Health Organization's International Statistical Classification of Diseases and Related Health Problems shall not affect the conditions covered by this section as long as a condition is commonly understood to be a mental health or substance use disorder by health care providers practicing in relevant clinical specialties.

(3) (A) For purposes of this section, "medically necessary treatment of a mental health or substance use disorder" means a service or product addressing the specific needs of that patient, for the purpose of preventing, diagnosing, or treating an illness, injury, condition, or its symptoms, including minimizing the progression of that illness, injury, condition, or its symptoms, in a manner that is all of the following:

(i) In accordance with the generally accepted standards of mental health and substance use disorder care.

(ii) Clinically appropriate in terms of type, frequency, extent, site, and duration.

(iii) Not primarily for the economic benefit of the health care service plan and subscribers or for the convenience of the patient, treating physician, or other health care provider.

(B) This paragraph does not limit in any way the independent medical review rights of an enrollee or subscriber under this chapter.

(4) For purposes of this section, "health care provider" means any of the following:

- (A) A person who is licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.
- (B) An associate marriage and family therapist or marriage and family therapist trainee functioning pursuant to Section 4980.43.3 of the Business and Professions Code.
- (C) A qualified autism service provider ~~or qualified autism service professional~~ certified by a national entity ~~pursuant to Section 10144.51 of the Insurance Code and Section 1374.73~~ *as defined in Section 4999.200 of the Business and Professions Code or a qualified autism service professional as defined in Section 4999.201 of the Business and Professions Code.*
- (D) An associate clinical social worker functioning pursuant to Section 4996.23.2 of the Business and Professions Code.
- (E) An associate professional clinical counselor or professional clinical counselor trainee functioning pursuant to Section 4999.46.3 of the Business and Professions Code.
- (F) A registered psychologist, as described in Section 2909.5 of the Business and Professions Code.
- (G) A registered psychological associate, as described in Section 2913 of the Business and Professions Code.
- (H) A psychology trainee or person supervised as set forth in Section 2910 or 2911 of, or subdivision (d) of Section 2914 of, the Business and Professions Code.
- (5) For purposes of this section, “generally accepted standards of mental health and substance use disorder care” has the same meaning as defined in paragraph (1) of subdivision (f) of Section 1374.721.
- (6) A health care service plan shall not limit benefits or coverage for mental health and substance use disorders to short-term or acute treatment.
- (7) All medical necessity determinations by the health care service plan concerning service intensity, level of care placement, continued stay, and transfer or discharge of enrollees diagnosed with mental health and substance use disorders shall be conducted in accordance with the requirements of Section 1374.721. This paragraph does not deprive an enrollee of the other protections of this chapter, including, but not limited to, grievances, appeals, independent medical review, discharge, transfer, and continuity of care.
- (8) A health care service plan that authorizes a specific type of treatment by a provider pursuant to this section shall not rescind or modify the authorization after the provider renders the health care service in good faith and pursuant to this authorization for any reason, including, but not limited to, the plan’s subsequent rescission, cancellation, or modification of the enrollee’s or subscriber’s contract, or the plan’s subsequent determination that it did not make an accurate determination of the enrollee’s or subscriber’s eligibility. This section shall not be construed to expand or alter the benefits available to the enrollee or subscriber under a plan.
- (b) The benefits that shall be covered pursuant to this section shall include, but not be limited to, the following:
- (1) Basic health care services, as defined in subdivision (b) of Section 1345.
  - (2) Intermediate services, including the full range of levels of care, including, but not limited to, residential treatment, partial hospitalization, and intensive outpatient treatment.
  - (3) Prescription drugs, if the plan contract includes coverage for prescription drugs.
- (c) The terms and conditions applied to the benefits required by this section, that shall be applied equally to all benefits under the plan contract, shall include, but not be limited to, all of the following patient financial responsibilities:
- (1) Maximum annual and lifetime benefits, if not prohibited by applicable law.
  - (2) Copayments and coinsurance.
  - (3) Individual and family deductibles.
  - (4) Out-of-pocket maximums.
- (d) If services for the medically necessary treatment of a mental health or substance use disorder are not available in network within the geographic and timely access standards set by law or regulation, the health care service plan shall arrange coverage to ensure the delivery of medically necessary out-of-network services and any medically necessary followup services that, to the maximum extent possible, meet those geographic and timely access standards. As used in this subdivision, to “arrange coverage to ensure the delivery of medically necessary out-of-network services” includes, but is not limited to, providing services to secure medically necessary out-of-network options that are available to the enrollee within geographic and timely access standards. The enrollee shall pay no more than the same cost sharing that the enrollee would pay for the same covered services received from an in-network provider.

(e) This section shall not apply to contracts entered into pursuant to Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code, between the State Department of Health Care Services and a health care service plan for enrolled Medi-Cal beneficiaries.

(f) (1) For the purpose of compliance with this section, a health care service plan may provide coverage for all or part of the mental health and substance use disorder services required by this section through a separate specialized health care service plan or mental health plan, and shall not be required to obtain an additional or specialized license for this purpose.

(2) A health care service plan shall provide the mental health and substance use disorder coverage required by this section in its entire service area and in emergency situations as may be required by applicable laws and regulations. For purposes of this section, health care service plan contracts that provide benefits to enrollees through preferred provider contracting arrangements are not precluded from requiring enrollees who reside or work in geographic areas served by specialized health care service plans or mental health plans to secure all or part of their mental health services within those geographic areas served by specialized health care service plans or mental health plans, provided that all appropriate mental health or substance use disorder services are actually available within those geographic service areas within timeliness standards.

(3) Notwithstanding any other law, in the provision of benefits required by this section, a health care service plan may utilize case management, network providers, utilization review techniques, prior authorization, copayments, or other cost sharing, provided that these practices are consistent with Section 1374.76 of this code, and Section 2052 of the Business and Professions Code.

(g) This section shall not be construed to deny or restrict in any way the department's authority to ensure plan compliance with this chapter.

(h) A health care service plan shall not limit benefits or coverage for medically necessary services on the basis that those services should be or could be covered by a public entitlement program, including, but not limited to, special education or an individualized education program, Medicaid, Medicare, Supplemental Security Income, or Social Security Disability Insurance, and shall not include or enforce a contract term that excludes otherwise covered benefits on the basis that those services should be or could be covered by a public entitlement program.

(i) A health care service plan shall not adopt, impose, or enforce terms in its plan contracts or provider agreements, in writing or in operation, that undermine, alter, or conflict with the requirements of this section.

## **SEC. 6.**

Section 10133.15 of the Insurance Code is amended to read:

(a) Commencing July 1, 2016, a health insurer that contracts with providers for alternative rates of payment pursuant to Section 10133 shall publish and maintain provider directory or directories with information on contracting providers that deliver health care services to the insurer's insureds, including those that accept new patients. A provider directory shall not list or include information on a provider that is not currently under contract with the insurer.

(b) An insurer shall provide the online directory or directories for the specific network offered for each product using a consistent method of network and product naming, numbering, or other classification method that ensures the public, insureds, potential insureds, the department, and other state or federal agencies can easily identify the networks and insurer products in which a provider participates. By July 31, 2017, or 12 months after the date provider directory standards are developed under subdivision (k), whichever occurs later, an insurer shall use the naming, numbering, or classification method developed by the department pursuant to subdivision (k).

(c) (1) An online provider directory or directories shall be available on the insurer's ~~Internet-Web site-~~ [internet website](#) to the public, potential insureds, insureds, and providers without any restrictions or limitations. The directory or directories shall be accessible without any requirement that an individual seeking the directory information demonstrate coverage with the insurer, indicate interest in obtaining coverage with the insurer, provide a member identification or policy number, provide any other identifying information, or create or access an account.

(2) The online provider directory or directories shall be accessible on the insurer's public ~~Internet-Web site-~~ [internet website](#) through an identifiable link or tab and in a manner that is accessible and searchable



by insureds, potential insureds, the public, and providers. By July 1, 2017, or 12 months after the date provider directory standards are developed under subdivision (k), whichever occurs later, the insurer's public ~~Internet Web site~~ [internet website](#) shall allow provider searches by, at a minimum, name, practice address, city, ZIP Code, California license number, National Provider Identifier number, admitting privileges to an identified hospital, product, tier, provider language or languages, provider group, hospital name, facility name, or clinic name, as appropriate.

(d) (1) An insurer shall allow insureds, potential insureds, providers, and members of the public to request a printed copy of the provider directory or directories by contacting the insurer through the insurer's toll-free telephone number, electronically, or in writing. A printed copy of the provider directory or directories shall include the information required in subdivisions (h) and (i). The printed copy of the provider directory or directories shall be provided to the requester by mail postmarked no later than five business days following the date of the request and may be limited to the geographic region in which the requester resides or works or intends to reside or work.

(2) An insurer shall update its printed provider directory or directories at least quarterly, or more frequently, if required by federal law.

(e) (1) The insurer shall update the online provider directory or directories, at least weekly, or more frequently, if required by federal law, when informed of and upon confirmation by the insurer of any of the following:

(A) A contracting provider is no longer accepting new patients for that product, or an individual provider within a provider group is no longer accepting new patients.

(B) A contracted provider is no longer under contract for a particular product.

(C) A provider's practice location or other information required under subdivision (h) or (i) has changed.

(D) Upon the completion of the investigation described in subdivision (o), a change is necessary based on an insured complaint that a provider was not accepting new patients, was otherwise not available, or whose contact information was listed incorrectly.

(E) Any other information that affects the content or accuracy of the provider directory or directories.

(2) Upon confirmation of any of the following, the insurer shall delete a provider from the directory or directories when:

(A) A provider has retired or otherwise has ceased to practice.

(B) A provider or provider group is no longer under contract with the insurer for any reason.

(C) The contracting provider group has informed the insurer that the provider is no longer associated with the provider group and is no longer under contract with the insurer.

(f) The provider directory or directories shall include both an email address and a telephone number for members of the public and providers to notify the insurer if the provider directory information appears to be inaccurate. This information shall be disclosed prominently in the directory or directories and on the insurer's ~~Internet Web site~~ [internet website](#).

(g) The provider directory or directories shall include the following disclosures informing insureds that they are entitled to both of the following:

(1) Language interpreter services, at no cost to the insured, including how to obtain interpretation services in accordance with Section 10133.8.

(2) Full and equal access to covered services, including insureds with disabilities as required under the federal Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973.

(h) The insurer and a specialized mental health insurer shall include all of the following information in the provider directory or directories:

(1) The provider's name, practice location or locations, and contact information.

(2) Type of practitioner.

(3) National Provider Identifier number.

(4) California license number and type of license.

(5) The area of specialty, including board certification, if any.

(6) The provider's office email address, if available.

(7) The name of each affiliated provider group currently under contract with the insurer through which the provider sees enrollees.

(8) A listing for each of the following providers that are under contract with the insurer:

(A) For physicians and surgeons, the provider group, and admitting privileges, if any, at hospitals contracted with the insurer.

(B) Nurse practitioners, physician assistants, psychologists, acupuncturists, optometrists, podiatrists, chiropractors, licensed clinical social workers, marriage and family therapists, professional clinical counselors, qualified autism service providers, as defined in Section ~~10144.51~~, *4999.200 of the Business and Professions Code*, nurse midwives, and dentists.

(C) For federally qualified health centers or primary care clinics, the name of the federally qualified health center or clinic.

(D) For ~~any~~ *a* provider described in subparagraph (A) or (B) who is employed by a federally qualified health center or primary care clinic, and to the extent their services may be accessed and are covered through the contract with the insurer, the name of the provider, and the name of the federally qualified health center or clinic.

(E) Facilities, including, but not limited to, general acute care hospitals, skilled nursing facilities, urgent care clinics, ambulatory surgery centers, inpatient hospice, residential care facilities, and inpatient rehabilitation facilities.

(F) Pharmacies, clinical laboratories, imaging centers, and other facilities providing contracted health care services.

(9) The provider directory or directories may note that authorization or referral may be required to access some providers.

(10) Non-English language, if any, spoken by a health care provider or other medical professional as well as non-English language spoken by a qualified medical interpreter, in accordance with Section 10133.8, if any, on the provider's staff.

(11) Identification of providers who no longer accept new patients for some or all of the insurer's products.

(12) The network tier to which the provider is assigned, if the provider is not in the lowest tier, as applicable. Nothing in this section shall be construed to require the use of network tiers other than contract and noncontracting tiers.

(13) All other information necessary to conduct a search pursuant to paragraph (2) of subdivision (c).

(i) A vision, dental, or other specialized insurer, except for a specialized mental health insurer, shall include all of the following information for each provider directory or directories used by the insurer for its networks:

(1) The provider's name, practice location or locations, and contact information.

(2) Type of practitioner.

(3) National Provider Identifier number.

(4) California license number and type of license, if applicable.

(5) The area of specialty, including board certification, or other accreditation, if any.

(6) The provider's office email address, if available.

(7) The name of each affiliated provider group or specialty insurer practice group currently under contract with the insurer through which the provider sees insureds.

(8) The names of each allied health care professional to the extent there is a direct contract for those services covered through a contract with the insurer.

(9) The non-English language, if any, spoken by a health care provider or other medical professional as well as non-English language spoken by a qualified medical interpreter, in accordance with Section 10133.8, if any, on the provider's staff.

(10) Identification of providers who no longer accept new patients for some or all of the insurer's products.

(11) All other applicable information necessary to conduct a provider search pursuant to paragraph (2) of subdivision (c).

(j) (1) The contract between the insurer and a provider shall include a requirement that the provider inform the insurer within five business days when either of the following occurs:

(A) The provider is not accepting new patients.

(B) If the provider had previously not accepted new patients, the provider is currently accepting new patients.

(2) If a provider who is not accepting new patients is contacted by an insured or potential insured seeking to become a new patient, the provider shall direct the insurer or potential insured to both the insurer for additional assistance in finding a provider and to the department to report any inaccuracy with the insurer's directory or directories.

(3) If an insured or potential insured informs an insurer of a possible inaccuracy in the provider directory or directories, the insurer shall promptly investigate and, if necessary, undertake corrective action within 30 business days to ensure the accuracy of the directory or directories.

(k) (1) On or before December 31, 2016, the department shall develop uniform provider directory standards to permit consistency in accordance with subdivision (b) and paragraph (2) of subdivision (c) and development of a multiplan directory by another entity. Those standards shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), until January 1, 2021. No more than two revisions of those standards shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) pursuant to this subdivision.

(2) In developing the standards under this subdivision, the department shall seek input from interested parties throughout the process of developing the standards and shall hold at least one public meeting. The department shall take into consideration any requirements for provider directories established by the federal Centers for Medicare and Medicaid Services and the State Department of Health Care Services.

(3) By July 31, 2017, or 12 months after the date provider directory standards are developed under this subdivision, whichever occurs later, an insurer shall use the standards developed by the department for each product offered by the insurer.

(l) (1) An insurer shall take appropriate steps to ensure the accuracy of the information concerning each provider listed in the insurer's provider directory or directories in accordance with this section, and shall, at least annually, review and update the entire provider directory or directories for each product offered. Each calendar year the insurer shall notify all contracted providers described in subdivisions (h) and (i) as follows:

(A) For individual providers who are not affiliated with a provider group described in subparagraph (A) or (B) of paragraph (8) of subdivision (h) and providers described in subdivision (i), the insurer shall notify each provider at least once every six months.

(B) For all other providers described in subdivision (h) who are not subject to the requirements of subparagraph (A), the insurer shall notify its contracted providers to ensure that all of the providers are contacted by the insurer at least once annually.

(2) The notification shall include all of the following:

(A) The information the insurer has in its directory or directories regarding the provider or provider group, including a list of networks and products that include the contracted provider or provider group.

(B) A statement that the failure to respond to the notification may result in a delay of payment or reimbursement of a claim pursuant to subdivision (p).

(C) Instructions on how the provider or provider group can update the information in the provider directory or directories using the online interface developed pursuant to subdivision (m).

(3) The insurer shall require an affirmative response from the provider or provider group acknowledging that the notification was received. The provider or provider group shall confirm that the information in the provider directory or directories is current and accurate or update the information required to be in the directory or directories pursuant to this section, including whether or not the provider group is accepting new patients for each product.

(4) If the insurer does not receive an affirmative response and confirmation from the provider that the information is current and accurate or, as an alternative, updates any information required to be in the directory or directories pursuant to this section, within 30 business days, the insurer shall take no more than 15 business days to verify whether the provider's information is correct or requires updates. The insurer shall document the receipt and outcome of each attempt to verify the information. If the insurer is unable to verify whether the provider's information is correct or requires updates, the insurer shall notify the provider 10 business days in advance of removal that the provider will be removed from the directory or directories. The provider shall be removed from the directory or directories at the next required update of the provider directory or directories after the 10-business day notice period. A provider shall not be removed from the provider directory or directories if ~~he or she responds-~~ **they respond** before the end of the 10-business day notice period.

(5) General acute care hospitals shall be exempt from the requirements in paragraphs (3) and (4).

(m) An insurer shall establish policies and procedures with regard to the regular updating of its provider directory or directories, including the weekly, quarterly, and annual updates required pursuant to this section, or more frequently, if required by federal law or guidance.

(1) The policies and procedures described under this subdivision shall be submitted by an insurer annually to the department for approval and in a format described by the department.

(2) Every insurer shall ensure processes are in place to allow providers to promptly verify or submit changes to the information required to be in the directory or directories pursuant to this section. Those



processes shall, at a minimum, include an online interface for providers to submit verification or changes electronically and shall generate an acknowledgment of receipt from the insurer. Providers shall verify or submit changes to information required to be in the directory or directories pursuant to this section using the process required by the insurer.

(3) The insurer shall establish and maintain a process for insureds, potential insureds, other providers, and the public to identify and report possible inaccurate, incomplete, or misleading information currently listed in the insurer's provider directory or directories. This process shall, at a minimum, include a telephone number and a dedicated email address at which the insurer will accept these reports, as well as a hyperlink on the insurer's provider directory ~~Internet Web site~~ [internet website](#) linking to a form where the information can be reported directly to the insurer through its ~~Internet Web site~~ [internet website](#).

(n) (1) This section does not prohibit an insurer from requiring its provider groups or contracting specialized health insurers to provide information to the insurer that is required by the insurer to satisfy the requirements of this section for each of the providers that contract with the provider group or contracting specialized health insurer. This responsibility shall be specifically documented in a written contract between the insurer and the provider group or contracting specialized health insurer.

(2) If an insurer requires its contracting provider groups or contracting specialized health insurers to provide the insurer with information described in paragraph (1), the insurer shall continue to retain responsibility for ensuring that the requirements of this section are satisfied.

(3) A provider group may terminate a contract with a provider for a pattern or repeated failure of the provider to update the information required to be in the directory or directories pursuant to this section.

(4) A provider group is not subject to the payment delay described in subdivision (p) if all of the following occurs:

(A) A provider does not respond to the provider group's attempt to verify the provider's information. As used in this paragraph, "verify" means to contact the provider in writing, electronically, and by telephone to confirm whether the provider's information is correct or requires updates.

(B) The provider group documents its efforts to verify the provider's information.

(C) The provider group reports to the insurer that the provider should be deleted from the provider group in the insurer's provider directory or directories.

(5) Section 10133.65, known as the Health Care Providers' Bill of Rights, applies to any material change to a provider contract pursuant to this section.

(o) (1) Whenever an insurer receives a report indicating that information listed in its provider directory or directories is inaccurate, the insurer shall promptly investigate the reported inaccuracy and, no later than 30 business days following receipt of the report, either verify the accuracy of the information or update the information in its provider directory or directories, as applicable.

(2) When investigating a report regarding its provider directory or directories, the insurer shall, at a minimum, do the following:

(A) Contact the affected provider no later than five business days following receipt of the report.

(B) Document the receipt and outcome of each report. The documentation shall include the provider's name, location, and a description of the insurer's investigation, the outcome of the investigation, and any changes or updates made to its provider directory or directories.

(C) If changes to an insurer's provider directory or directories are required as a result of the insurer's investigation, the changes to the online provider directory or directories shall be made no later than the next scheduled weekly update, or the update immediately following that update, or sooner if required by federal law or regulations. For printed provider directories, the change shall be made no later than the next required update, or sooner if required by federal law or regulations.

(p) (1) Notwithstanding Sections 10123.13 and 10123.147, an insurer may delay payment or reimbursement owed to a provider or provider group for any claims payment made to a provider or provider group for up to one calendar month beginning on the first day of the following month, if the provider or provider group fails to respond to the insurer's attempts to verify the provider's information as required under subdivision (l). The insurer shall not delay payment unless it has attempted to verify the provider's or provider group's information. As used in this subdivision, "verify" means to contact the provider or provider group in writing, electronically, and by telephone to confirm whether the provider's or provider group's information is correct or requires updates. An insurer may seek to delay payment or reimbursement owed to a provider or provider group only after the 10-business day notice period described in paragraph (4) of subdivision (l) has lapsed.

(2) An insurer shall notify the provider or provider group 10 days before it seeks to delay payment or reimbursement to a provider or provider group pursuant to this subdivision. If the insurer delays a payment or reimbursement pursuant to this subdivision, the insurer shall reimburse the full amount of any payment or reimbursement subject to delay to the provider or provider group according to either of the following timelines, as applicable:

(A) No later than three business days following the date on which the insurer receives the information required to be submitted by the provider or provider group pursuant to subdivision (l).

(B) At the end of the one-calendar-month delay described in paragraph (1), if the provider or provider group fails to provide the information required to be submitted to the insurer pursuant to subdivision (l).

(3) An insurer may terminate a contract for a pattern or repeated failure of the provider or provider group to alert the insurer to a change in the information required to be in the directory or directories pursuant to this section.

(4) An insurer that delays payment or reimbursement under this subdivision shall document each instance a payment or reimbursement was delayed and report this information to the department in a format described by the department. This information shall be submitted along with the policies and procedures required to be submitted annually to the department pursuant to paragraph (1) of subdivision (m).

(q) In circumstances where the department finds that an insured reasonably relied upon materially inaccurate, incomplete, or misleading information contained in an insurer's provider directory or directories, the department may require the insurer to provide coverage for all covered health care services provided to the insured and to reimburse the insured for any amount beyond what the insured would have paid, had the services been delivered by an in-network provider under the insured's health insurance policy. Prior to requiring reimbursement in these circumstances, the department shall conclude that the services received by the insured were covered services under the insured's health insurance policy. In those circumstances, the fact that the services were rendered or delivered by a noncontracting or out-of-network provider shall not be used as a basis to deny reimbursement to the insured.

(r) Whenever an insurer determines as a result of this section that there has been a 10-percent change in the network for a product in a region, the insurer shall file a statement with the commissioner.

(s) An insurer that contracts with multiple employer welfare agreements regulated pursuant to Article 4.7 (commencing with Section 742.20) of Chapter 1 of Part 2 of Division 1 shall meet the requirements of this section.

(t) This section shall not be construed to alter a provider's obligation to provide health care services to an insured pursuant to the provider's contract with the insurer.

(u) As part of the department's routine examination of a health insurer pursuant to Section 730, the department shall include a review of the health insurer's compliance with subdivision (p).

(v) For purposes of this section, "provider group" means a medical group, independent practice association, or other similar group of providers.

## **SEC. 7.**

Section 10144.5 of the Insurance Code is amended to read:

(a) (1) Every disability insurance policy issued, amended, or renewed on or after January 1, 2021, that provides hospital, medical, or surgical coverage shall provide coverage for medically necessary treatment of mental health and substance use disorders, under the same terms and conditions applied to other medical conditions as specified in subdivision (c).

(2) For purposes of this section, "mental health and substance use disorders" means a mental health condition or substance use disorder that falls under any of the diagnostic categories listed in the mental and behavioral disorders chapter of the most recent edition of the World Health Organization's International Statistical Classification of Diseases and Related Health Problems, or that is listed in the most recent version of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders. Changes in terminology, organization, or classification of mental health and substance use disorders in future versions of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders or the World Health Organization's International Statistical Classification of Diseases and Related Health Problems shall not affect the conditions covered by this section as long as a condition is commonly understood to be a mental health or substance use disorder by health care providers practicing in relevant clinical specialties.

(3) (A) For purposes of this section, “medically necessary treatment of a mental health or substance use disorder” means a service or product addressing the specific needs of that patient, for the purpose of preventing, diagnosing, or treating an illness, injury, condition, or its symptoms, including minimizing the progression of an illness, injury, condition, or its symptoms, in a manner that is all of the following:

(i) In accordance with the generally accepted standards of mental health and substance use disorder care.

(ii) Clinically appropriate in terms of type, frequency, extent, site, and duration.

(iii) Not primarily for the economic benefit of the disability insurer and insureds or for the convenience of the patient, treating physician, or other health care provider.

(B) This paragraph does not limit in any way the independent medical review rights of an insured or policyholder under this chapter.

(4) “Health care provider” means any of the following:

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

(B) An associate marriage and family therapist or marriage and family therapist trainee functioning pursuant to Section 4980.43.3 of the Business and Professions Code.

(C) A qualified autism service provider ~~or qualified autism service professional~~ certified by a national entity ~~pursuant to Section 1374.73 as defined in Section 4999.200 of the Health Business and Safety Code and Section 10144.51.~~ *Professions Code or a qualified autism service professional as defined in Section 4999.201 of the Business and Professions Code.*

(D) An associate clinical social worker functioning pursuant to Section 4996.23.2 of the Business and Professions Code.

(E) An associate professional clinical counselor or professional clinical counselor trainee functioning pursuant to Section 4999.46.3 of the Business and Professions Code.

(F) A registered psychologist, as described in Section 2909.5 of the Business and Professions Code.

(G) A registered psychological assistant, as described in Section 2913 of the Business and Professions Code.

(H) A psychology trainee or person supervised as set forth in Section 2910 or 2911 of, or subdivision (d) of Section 2914 of, the Business and Professions Code.

(5) For purposes of this section, “generally accepted standards of mental health and substance use disorder care” has the same meaning as defined in paragraph (1) of subdivision (f) of Section 10144.52.

(6) A disability insurer shall not limit benefits or coverage for mental health and substance use disorders to short-term or acute treatment.

(7) All medical necessity determinations made by the disability insurer concerning service intensity, level of care placement, continued stay, and transfer or discharge of insureds diagnosed with mental health and substance use disorders shall be conducted in accordance with the requirements of Section 10144.52.

(8) A disability insurer that authorizes a specific type of treatment by a provider pursuant to this section shall not rescind or modify the authorization after the provider renders the health care service in good faith and pursuant to this authorization for any reason, including, but not limited to, the insurer’s subsequent rescission, cancellation, or modification of the insured’s or policyholder’s contract, or the insurer’s subsequent determination that it did not make an accurate determination of the insured’s or policyholder’s eligibility. This section shall not be construed to expand or alter the benefits available to the insured or policyholder under an insurance policy.

(b) The benefits that shall be covered pursuant to this section shall include, but not be limited to, the following:

(1) Basic health care services, as defined in subdivision (b) of Section 1345 of the Health and Safety Code.

(2) Intermediate services, including the full range of levels of care, including, but not limited to, residential treatment, partial hospitalization, and intensive outpatient treatment.

(3) Prescription drugs, if the policy includes coverage for prescription drugs.

(c) The terms and conditions applied to the benefits required by this section, that shall be applied equally to all benefits under the disability insurance policy shall include, but not be limited to, all of the following patient financial responsibilities:

(1) Maximum and annual lifetime benefits, if not prohibited by applicable law.

(2) Copayments and coinsurance.

(3) Individual and family deductibles.

(4) Out-of-pocket maximums.

(d) If services for the medically necessary treatment of a mental health or substance use disorder are not available in network within the geographic and timely access standards set by law or regulation, the disability insurer shall arrange coverage to ensure the delivery of medically necessary out-of-network services and any medically necessary followup services that, to the maximum extent possible, meet those geographic and timely access standards. As used in this subdivision, to “arrange coverage to ensure the delivery of medically necessary out-of-network services” includes, but is not limited to, providing services to secure medically necessary out-of-network options that are available to the insured within geographic and timely access standards. The insured shall pay no more than the same cost sharing that the insured would pay for the same covered services received from an in-network provider.

(e) This section shall not apply to accident-only, specified disease, hospital indemnity, Medicare supplement, dental-only, or vision-only insurance policies.

(f) (1) For the purpose of compliance with this section, a disability insurer may provide coverage for all or part of the mental health and substance use disorder services required by this section through a separate specialized health insurance policy or mental health policy. This paragraph shall not apply to policies that are subject to Section 10112.27.

(2) A disability insurer shall provide the mental health and substance use disorder coverage required by this section in its entire service area and in emergency situations as may be required by applicable laws and regulations. For purposes of this section, disability insurance policies that provide benefits to insureds through preferred provider contracting arrangements are not precluded from requiring insureds who reside or work in geographic areas served by specialized health insurance policies or mental health insurance policies to secure all or part of their mental health services within those geographic areas served by specialized health insurance policies or mental health insurance policies, provided that all appropriate mental health or substance use disorder services are actually available within those geographic service areas within timeliness standards.

(3) Notwithstanding any other law, in the provision of benefits required by this section, a disability insurer may utilize case management, network providers, utilization review techniques, prior authorization, copayments, or other cost sharing, provided that these practices are consistent with Section 10144.4 of this code, and Section 2052 of the Business and Professions Code.

(g) This section shall not be construed to deny or restrict in any way the department’s authority to ensure a disability insurer’s compliance with this code.

(h) A disability insurer shall not limit benefits or coverage for medically necessary services on the basis that those services should be or could be covered by a public entitlement program, including, but not limited to, special education or an individualized education program, Medicaid, Medicare, Supplemental Security Income, or Social Security Disability Insurance, and shall not include or enforce a contract term that excludes otherwise covered benefits on the basis that those services should be or could be covered by a public entitlement program.

(i) A disability insurer shall not adopt, impose, or enforce terms in its policies or provider agreements, in writing or in operation, that undermine, alter, or conflict with the requirements of this section.

(j) If the commissioner determines that a disability insurer has violated this section, the commissioner may, after appropriate notice and opportunity for hearing in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), by order, assess a civil penalty not to exceed five thousand dollars (\$5,000) for each violation, or, if a violation was willful, a civil penalty not to exceed ten thousand dollars (\$10,000) for each violation.

## **SEC. 8.**

Section 10144.51 of the Insurance Code is amended to read:

(a) (1) Every health insurance policy shall also provide coverage for behavioral health treatment for pervasive developmental disorder or autism no later than July 1, 2012. The coverage shall be provided in the same manner and ~~shall be~~ *is* subject to the same requirements as provided in Section 10144.5.

(2) Notwithstanding paragraph (1), as of the date that proposed final rulemaking for essential health benefits is issued, this section does not require any benefits to be provided that exceed the essential health benefits that all health insurers will be required by federal regulations to provide under Section

1302(b) of the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152).

(3) This section ~~shall~~ **does** not affect services for which an individual is eligible pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.

(4) This section ~~shall~~ **does** not affect or reduce any obligation to provide services under an individualized education program, as defined in Section 56032 of the Education Code, or an individual service plan, as described in Section 5600.4 of the Welfare and Institutions Code, or under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing regulations.

(b) Pursuant to Article 6 (commencing with Section 2240) of Subchapter 2 of Chapter 5 of Title 10 of the California Code of Regulations, every health insurer subject to this section shall maintain an adequate network that includes qualified autism service providers who supervise or employ qualified autism service professionals or paraprofessionals who provide and administer behavioral health treatment. A health insurer is not prevented from selectively contracting with providers within these requirements.

(c) For the purposes of this section, the following definitions shall apply:

(1) "Behavioral health treatment" means professional services and treatment programs, including applied behavior analysis and evidence-based behavior intervention programs, that develop or restore, to the maximum extent practicable, the functioning of an individual with pervasive developmental disorder or autism, and that meet all of the following criteria:

(A) The treatment is prescribed by a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of, or is developed by a psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of, Division 2 of the Business and Professions Code.

(B) The treatment is provided under a treatment plan prescribed by a qualified autism service provider and is administered by one of the following:

(i) A qualified autism service provider.

(ii) A qualified autism service professional supervised by the qualified autism service provider.

(iii) A qualified autism service paraprofessional supervised by a qualified autism service provider or qualified autism service professional.

(C) The treatment plan has measurable goals over a specific timeline that is developed and approved by the qualified autism service provider for the specific patient being treated. The treatment plan shall be reviewed no less than once every six months by the qualified autism service provider and modified whenever appropriate, and shall be consistent with Section 4686.2 of the Welfare and Institutions Code pursuant to which the qualified autism service provider does all of the following:

(i) Describes the patient's behavioral health impairments or developmental challenges that are to be treated.

(ii) Designs an intervention plan that includes the service type, number of hours, and parent participation needed to achieve the plan's goal and objectives, and the frequency at which the patient's progress is evaluated and reported.

(iii) Provides intervention plans that utilize evidence-based practices, with demonstrated clinical efficacy in treating pervasive developmental disorder or autism.

(iv) Discontinues intensive behavioral intervention services when the treatment goals and objectives are achieved or no longer appropriate.

(D) The treatment plan is not used for purposes of providing or for the reimbursement of respite, day care, or educational services and is not used to reimburse a parent for participating in the treatment program. The treatment plan shall be made available to the insurer upon request.

~~(2) "Pervasive developmental disorder or autism" shall have the same meaning and interpretation as used in Section 10144.5.~~

~~(3) "Qualified autism service provider" means either of the following:~~

~~(A) A person who is certified by a national entity, such as the Behavior Analyst Certification Board, with a certification that is accredited by the National Commission for Certifying Agencies, and who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the person who is nationally certified.~~

~~(B) (2) A person licensed as a physician and surgeon, physical therapist, occupational therapist, psychologist, marriage and family therapist, educational psychologist, clinical social worker, professional clinical counselor, speech language pathologist, or audiologist pursuant to Division 2 (commencing with Section 500)~~ **"Qualified autism service provider" means an individual described in Section 4999.200 of**

the Business and Professions Code, who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the licensee. Code.

(4) (3) "Qualified autism service professional" means an individual who meets all of the following criteria: *criteria set forth in Section 4999.201 of the Business and Professions Code.*

(A) Provides behavioral health treatment, which may include clinical case management and case supervision under the direction and supervision of a qualified autism service provider.

(B) Is supervised by a qualified autism service provider.

(C) Provides treatment pursuant to a treatment plan developed and approved by the qualified autism service provider.

(D) Is either of the following:

(i) A behavioral service provider who meets the education and experience qualifications described in Section 54342 of Title 17 of the California Code of Regulations for an Associate Behavior Analyst, Behavior Analyst, Behavior Management Assistant, Behavior Management Consultant, or Behavior Management Program.

(ii) A psychological associate, an associate marriage and family therapist, an associate clinical social worker, or an associate professional clinical counselor, as defined and regulated by the Board of Behavioral Sciences or the Board of Psychology.

(E) (i) Has training and experience in providing services for pervasive developmental disorder or autism pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.

(ii) If an individual meets the requirement described in clause (ii) of subparagraph (D), the individual shall also meet the criteria set forth in the regulations adopted pursuant to Section 4686.4 of the Welfare and Institutions Code for a Behavioral Health Professional.

(F) Is employed by the qualified autism service provider or an entity or group that employs qualified autism service providers responsible for the autism treatment plan.

(5) (4) "Qualified autism service paraprofessional" means an unlicensed and uncertified individual who meets all of the following criteria: *criteria set forth in Section 4999.202 of the Business and Professions Code.*

(A) Is supervised by a qualified autism service provider or qualified autism service professional at a level of clinical supervision that meets professionally recognized standards of practice.

(B) Provides treatment and implements services pursuant to a treatment plan developed and approved by the qualified autism service provider.

(C) Meets the education and training qualifications described in Section 54342 of Title 17 of the California Code of Regulations.

(D) Has adequate education, training, and experience, as certified by a qualified autism service provider or an entity or group that employs qualified autism service providers.

(E) Is employed by the qualified autism service provider or an entity or group that employs qualified autism service providers responsible for the autism treatment plan.

(d) This section ~~shall~~ **does** not apply to **any** the following:

(1) A specialized health insurance policy that does not cover mental health or behavioral health services or an accident only, specified disease, hospital indemnity, or Medicare supplement policy.

(2) A health insurance policy in the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

(e) This section does not limit the obligation to provide services under Section 10144.5.

(f) As provided in Section 10144.5 and in paragraph (1) of subdivision (a), in the provision of benefits required by this section, a health insurer may utilize case management, network providers, utilization review techniques, prior authorization, copayments, or other cost sharing.

## SEC. 9.

Section 11165.7 of the Penal Code is amended to read:

(a) As used in this article, "mandated reporter" is defined as any of the following:

(1) A teacher.

(2) An instructional aide.

(3) A teacher's aide or teacher's assistant employed by a public or private school.



- (4) A classified employee of a public school.
- (5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of a public or private school.
- (6) An administrator of a public or private day camp.
- (7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.
- (8) An administrator, board member, or employee of a public or private organization whose duties require direct contact and supervision of children, including a foster family agency.
- (9) An employee of a county office of education or the State Department of Education whose duties bring the employee into contact with children on a regular basis.
- (10) A licensee, an administrator, or an employee of a licensed community care or child daycare facility.
- (11) A Head Start program teacher.
- (12) A licensing worker or licensing evaluator employed by a licensing agency, as defined in Section 11165.11.
- (13) A public assistance worker.
- (14) An employee of a childcare institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.
- (15) A social worker, probation officer, or parole officer.
- (16) An employee of a school district police or security department.
- (17) A person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in a public or private school.
- (18) A district attorney investigator, inspector, or local child support agency caseworker, unless the investigator, inspector, or caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor.
- (19) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is not otherwise described in this section.
- (20) A firefighter, except for volunteer firefighters.
- (21) A physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage and family therapist, clinical social worker, professional clinical counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.
- (22) An emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.
- (23) A psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.
- (24) A marriage and family therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code.
- (25) An unlicensed associate marriage and family therapist registered under Section 4980.44 of the Business and Professions Code.
- (26) A state or county public health employee who treats a minor for venereal disease or any other condition.
- (27) A coroner.
- (28) A medical examiner or other person who performs autopsies.
- (29) A commercial film and photographic print or image processor as specified in subdivision (e) of Section 11166. As used in this article, "commercial film and photographic print or image processor" means a person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, or who prepares, publishes, produces, develops, duplicates, or prints any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image, for compensation. The term includes any employee of that person; it does not include a person who develops film or makes prints or images for a public agency.
- (30) A child visitation monitor. As used in this article, "child visitation monitor" means a person who, for financial compensation, acts as a monitor of a visit between a child and another person when the monitoring of that visit has been ordered by a court of law.

- (31) An animal control officer or humane society officer. For the purposes of this article, the following terms have the following meanings:
- (A) "Animal control officer" means a person employed by a city, county, or city and county for the purpose of enforcing animal control laws or regulations.
- (B) "Humane society officer" means a person appointed or employed by a public or private entity as a humane officer who is qualified pursuant to Section 14502 or 14503 of the Corporations Code.
- (32) A clergy member, as specified in subdivision (d) of Section 11166. As used in this article, "clergy member" means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.
- (33) Any custodian of records of a clergy member, as specified in this section and subdivision (d) of Section 11166.
- (34) An employee of any police department, county sheriff's department, county probation department, or county welfare department.
- (35) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 5.655 of the California Rules of Court.
- (36) A custodial officer, as defined in Section 831.5.
- (37) A person providing services to a minor child under Section 12300 or 12300.1 of the Welfare and Institutions Code.
- (38) An alcohol and drug counselor. As used in this article, an "alcohol and drug counselor" is a person providing counseling, therapy, or other clinical services for a state licensed or certified drug, alcohol, or drug and alcohol treatment program. However, alcohol or drug abuse, or both alcohol and drug abuse, is not, in and of itself, a sufficient basis for reporting child abuse or neglect.
- (39) A clinical counselor trainee, as defined in subdivision (g) of Section 4999.12 of the Business and Professions Code.
- (40) An associate professional clinical counselor registered under Section 4999.42 of the Business and Professions Code.
- (41) An employee or administrator of a public or private postsecondary educational institution, whose duties bring the administrator or employee into contact with children on a regular basis, or who supervises those whose duties bring the administrator or employee into contact with children on a regular basis, as to child abuse or neglect occurring on that institution's premises or at an official activity of, or program conducted by, the institution. Nothing in this paragraph shall be construed as altering the lawyer-client privilege as set forth in Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.
- (42) An athletic coach, athletic administrator, or athletic director employed by any public or private school that provides any combination of instruction for kindergarten, or grades 1 to 12, inclusive.
- (43) (A) A commercial computer technician as specified in subdivision (e) of Section 11166. As used in this article, "commercial computer technician" means a person who works for a company that is in the business of repairing, installing, or otherwise servicing a computer or computer component, including, but not limited to, a computer part, device, memory storage or recording mechanism, auxiliary storage recording or memory capacity, or any other material relating to the operation and maintenance of a computer or computer network system, for a fee. An employer who provides an electronic communications service or a remote computing service to the public shall be deemed to comply with this article if that employer complies with Section 2258A of Title 18 of the United States Code.
- (B) An employer of a commercial computer technician may implement internal procedures for facilitating reporting consistent with this article. These procedures may direct employees who are mandated reporters under this paragraph to report materials described in subdivision (e) of Section 11166 to an employee who is designated by the employer to receive the reports. An employee who is designated to receive reports under this subparagraph shall be a commercial computer technician for purposes of this article. A commercial computer technician who makes a report to the designated employee pursuant to this subparagraph shall be deemed to have complied with the requirements of this article and shall be subject to the protections afforded to mandated reporters, including, but not limited to, those protections afforded by Section 11172.
- (44) Any athletic coach, including, but not limited to, an assistant coach or a graduate assistant involved in coaching, at public or private postsecondary educational institutions.
- (45) An individual certified by a licensed foster family agency as a certified family home, as defined in Section 1506 of the Health and Safety Code.



(46) An individual approved as a resource family, as defined in Section 1517 of the Health and Safety Code and Section 16519.5 of the Welfare and Institutions Code.

(47) A qualified autism service provider, a qualified autism service professional, or a qualified autism service ~~paraprofessional~~, *paraprofessional* as defined in ~~Section 1374.73 of the Health and Safety Code and Section 10144.51 of the Insurance Code~~ *Chapter 17 (commencing with Section 4999.200) of Division 2 of the Business and Professions Code*.

(48) A human resource employee of a business subject to Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code that employs minors. For purposes of this section, a "human resource employee" is the employee or employees designated by the employer to accept any complaints of misconduct as required by Chapter 6 (commencing with Section 12940) of Part 2.8 of Division 3 of Title 2 of the Government Code.

(49) An adult person whose duties require direct contact with and supervision of minors in the performance of the minors' duties in the workplace of a business subject to Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code is a mandated reporter of sexual abuse, as defined in Section 11165.1. Nothing in this paragraph shall be construed to modify or limit the person's duty to report known or suspected child abuse or neglect when the person is acting in some other capacity that would otherwise make the person a mandated reporter.

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

(c) (1) Except as provided in subdivision (d) and paragraph (2), employers are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. Whether or not employers provide their employees with training in child abuse and neglect identification and reporting, the employers shall provide their employees who are mandated reporters with the statement required pursuant to subdivision (a) of Section 11166.5.

(2) Employers subject to paragraphs (48) and (49) of subdivision (a) shall provide their employees who are mandated reporters with training in the duties imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. The training requirement may be met by completing the general online training for mandated reporters offered by the Office of Child Abuse Prevention in the State Department of Social Services.

(d) Pursuant to Section 44691 of the Education Code, school districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools shall annually train their employees and persons working on their behalf specified in subdivision (a) in the duties of mandated reporters under the child abuse reporting laws. The training shall include, but not necessarily be limited to, training in child abuse and neglect identification and child abuse and neglect reporting.

(e) (1) On and after January 1, 2018, pursuant to Section 1596.8662 of the Health and Safety Code, a childcare licensee applicant shall take training in the duties of mandated reporters under the child abuse reporting laws as a condition of licensure, and a childcare administrator or an employee of a licensed child daycare facility shall take training in the duties of mandated reporters during the first 90 days when that administrator or employee is employed by the facility.

(2) A person specified in paragraph (1) who becomes a licensee, administrator, or employee of a licensed child daycare facility shall take renewal mandated reporter training every two years following the date on which that person completed the initial mandated reporter training. The training shall include, but not necessarily be limited to, training in child abuse and neglect identification and child abuse and neglect reporting.

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

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

# SB 446 - (A) Amends the Law

## SECTION 1.

Section 1798.82 of the Civil Code is amended to read:

(a) ~~A (1) -person~~ *An individual* or business that conducts business in California, and that owns or licenses computerized data that includes personal information, shall disclose a breach of the security of the system following discovery or notification of the breach in the security of the data to a resident of California ~~(1) whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person, or, (2) or whose encrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person and the encryption key or security credential was, or is reasonably believed to have been, acquired by an unauthorized person~~ *person*, and the person or business that owns or licenses the encrypted information has a reasonable belief that the encryption key or security credential could render that personal information readable or usable. ~~The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subdivision (c), or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.~~

*(2) (A) Subject to subparagraph (B), the disclosure required by this subdivision shall be made within 30 calendar days of discovery or notification of the data breach.*

*(B) An individual or business may delay the disclosure required by this subdivision to accommodate the legitimate needs of law enforcement, pursuant to subdivision (c), or as necessary to determine the scope of the breach and restore the reasonable integrity of the data system.*

(b) ~~A-person~~ *An individual* or business that maintains computerized data that includes personal information that the ~~person~~ *individual* or business does not own shall notify the owner or licensee of the information of the breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(c) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made promptly after the law enforcement agency determines that it will not compromise the investigation.

(d) ~~A-person~~ *An individual* or business that is required to issue a security breach notification pursuant to this section shall meet all of the following requirements:

(1) The security breach notification shall be written in plain language, shall be titled "Notice of Data Breach," and shall present the information described in paragraph (2) under the following headings: "What Happened," "What Information Was Involved," "What We Are Doing," "What You Can Do," and "For More Information." Additional information may be provided as a supplement to the notice.

(A) The format of the notice shall be designed to call attention to the nature and significance of the information it contains.

(B) The title and headings in the notice shall be clearly and conspicuously displayed.

(C) The text of the notice and any other notice provided pursuant to this section shall be no smaller than 10-point type.

(D) For a written notice described in paragraph (1) of subdivision (j), use of the model security breach notification form prescribed below or use of the headings described in this paragraph with the information described in paragraph (2), written in plain language, shall be deemed to be in compliance with this subdivision.

[NAME OF INSTITUTION / LOGO] \_\_\_\_\_ Date: [insert date]

## NOTICE OF DATA BREACH

What  
Happened?

What  
Information  
Was  
Involved?

What We  
Are Doing.

What You  
Can Do.

Other Important Information.  
[insert other important information]

For More Call [telephone number] or go to [internet website]  
Information.

(E) For an electronic notice described in paragraph (2) of subdivision (j), use of the headings described in this paragraph with the information described in paragraph (2), written in plain language, shall be deemed to be in compliance with this subdivision.

(2) The security breach notification described in paragraph (1) shall include, at a minimum, the following information:

(A) The name and contact information of the reporting ~~person~~ *individual* or business subject to this section.

(B) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach.

(C) If the information is possible to determine at the time the notice is provided, then any of the following: (i) the date of the breach, (ii) the estimated date of the breach, or (iii) the date range within which the breach occurred. The notification shall also include the date of the notice.

(D) Whether notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided.

(E) A general description of the breach incident, if that information is possible to determine at the time the notice is provided.

(F) The toll-free telephone numbers and addresses of the major credit reporting agencies if the breach exposed a social security number or a driver's license or California identification card number.

(G) If the ~~person~~ individual or business providing the notification was the source of the breach, an offer to provide appropriate identity theft prevention and mitigation services, if any, shall be provided at no cost to the affected ~~person~~ individual for not less than 12 months along with all information necessary to take advantage of the offer to any ~~person~~ individual whose information was or may have been breached if the breach exposed or may have exposed personal information defined in subparagraphs (A) and (B) of paragraph (1) of subdivision (h).

(3) At the discretion of the ~~person~~ individual or business, the security breach notification may also include any of the following:

(A) Information about what the ~~person~~ individual or business has done to protect individuals whose information has been breached.

(B) Advice on steps that people whose information has been breached may take to protect themselves.

(C) In breaches involving biometric data, instructions on how to notify other entities that used the same type of biometric data as an authenticator to no longer rely on data for authentication purposes.

(e) A covered entity under the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 1320d et seq.) will be deemed to have complied with the notice requirements in subdivision (d) if it has complied completely with Section 13402(f) of the federal Health Information Technology for Economic and Clinical Health Act (Public Law 111-5). However, nothing in this subdivision shall be construed to exempt a covered entity from any other provision of this section.

(f) ~~A person~~ An individual or business that is required to issue a security breach notification pursuant to this section to more than 500 California residents as a result of a single breach of the security system shall electronically submit a single sample copy of that security breach notification, excluding any personally identifiable information, to the Attorney General ~~General~~ within 15 calendar days of discovery or notification of the security breach. A single sample copy of a security breach notification shall not be deemed to be within Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code.

(g) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the ~~person~~ individual or business. Good faith acquisition of personal information by an employee or agent of the ~~person~~ individual or business for the purposes of the ~~person~~ individual or business is not a breach of the security of the system, provided that the personal information is not used or subject to further unauthorized disclosure.

(h) For purposes of this section, "personal information" means either of the following:

(1) An individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

(A) Social security number.

(B) Driver's license number, California identification card number, tax identification number, passport number, military identification number, or other unique identification number issued on a government document commonly used to verify the identity of a specific individual.

(C) Account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(D) Medical information.

(E) Health insurance information.

(F) Unique biometric data generated from measurements or technical analysis of human body characteristics, such as a fingerprint, retina, or iris image, used to authenticate a specific individual. Unique biometric data does not include a physical or digital photograph, unless used or stored for facial recognition purposes.

(G) Information or data collected through the use or operation of an automated license plate recognition system, as defined in Section 1798.90.5.

(H) Genetic data.

(2) A username or email address, in combination with a password or security question and answer that would permit access to an online account.

(i) (1) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(2) For purposes of this section, "medical information" means any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional.

(3) For purposes of this section, "health insurance information" means an individual's health insurance policy number or subscriber identification number, any unique identifier used by a health insurer to identify the individual, or any information in an individual's application and claims history, including any appeals records.

(4) For purposes of this section, "encrypted" means rendered unusable, unreadable, or indecipherable to an unauthorized person through a security technology or methodology generally accepted in the field of information security.

(5) "Genetic data" means any data, regardless of its format, that results from the analysis of a biological sample of an individual, or from another source enabling equivalent information to be obtained, and concerns genetic material. Genetic material includes, but is not limited to, deoxyribonucleic acids (DNA), ribonucleic acids (RNA), genes, chromosomes, alleles, genomes, alterations or modifications to DNA or RNA, single nucleotide polymorphisms (SNPs), uninterpreted data that results from analysis of the biological sample or other source, and any information extrapolated, derived, or inferred therefrom.

(j) For purposes of this section, "notice" may be provided by one of the following methods:

(1) Written notice.

(2) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in Section 7001 of Title 15 of the United States Code.

(3) Substitute notice, if the ~~person~~ *individual* or business demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars (\$250,000), or that the affected class of subject persons to be notified exceeds 500,000, or the ~~person~~ *individual* or business does not have sufficient contact information. Substitute notice shall consist of all of the following:

(A) Email notice when the ~~person~~ *individual* or business has an email address for the subject persons.

(B) Conspicuous posting, for a minimum of 30 days, of the notice on the internet website page of the ~~person~~ *individual* or business, if the ~~person~~ *individual* or business maintains one. For purposes of this subparagraph, conspicuous posting on the ~~person's~~ *individual's* or business's internet website means providing a link to the notice on the home page or first significant page after entering the internet website that is in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks that call attention to the link.

(C) Notification to major statewide media.

(4) In the case of a breach of the security of the system involving personal information defined in paragraph

(2) of subdivision (h) for an online account, and no other personal information defined in paragraph (1) of subdivision (h), the ~~person~~ *individual* or business may comply with this section by providing the security breach notification in electronic or other form that directs the ~~person~~ *individual* whose personal information has been breached promptly to change the ~~person's~~ *individual's* password and security question or answer, as applicable, or to take other steps appropriate to protect the online account with the ~~person~~ *individual* or business and all other online accounts for which the ~~person~~ *individual* whose personal information has been breached uses the same username or email address and password or security question or answer.

(5) In the case of a breach of the security of the system involving personal information defined in paragraph (2) of subdivision (h) for login credentials of an email account furnished by the ~~person~~ *individual* or business, the ~~person~~ *individual* or business shall not comply with this section by providing the security breach notification to that email address, but may, instead, comply with this section by providing notice by another method described in this subdivision or by clear and conspicuous notice delivered to the resident online when the resident is connected to the online account from an Internet Protocol address or online

location from which the ~~person~~ *individual* or business knows the resident customarily accesses the account.

(k) For purposes of this section, “encryption key” and “security credential” mean the confidential key or process designed to render data usable, readable, and decipherable.

(l) Notwithstanding subdivision (j), a ~~person~~ *individual* or business that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this part, shall be deemed to be in compliance with the notification requirements of this section if the ~~person~~ *individual* or business notifies subject ~~persons~~ *individuals* in accordance with its policies in the event of a breach of security of the system.

# SB 470 - (A) Amends the Law

## SECTION 1.

Section 11123.2 of the Government Code is amended to read:

(a) For purposes of this section, the following definitions apply:

(1) "Teleconference" means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video.

(2) "Teleconference location" means a physical location that is accessible to the public and from which members of the public may participate in the meeting.

(3) "Remote location" means a location from which a member of a state body participates in a meeting other than a teleconference location.

(4) "Participate remotely" means participation by a member of the body in a meeting at a remote location other than a teleconference location designated in the notice of the meeting.

(b) (1) In addition to the authorization to hold a meeting by teleconference pursuant to subdivision (b) of Section 11123 and Section 11123.5, a state body may hold an open or closed meeting by teleconference as described in this section, provided the meeting complies with all of this section's requirements and, except as set forth in this section, it also complies with all other applicable requirements of this article relating to the specific type of meeting.

(2) This section does not limit or affect the ability of a state body to hold a teleconference meeting under another provision of this article, including Sections 11123 and 11123.5.

(c) The portion of the teleconferenced meeting that is required to be open to the public shall be visible and audible to the public at each teleconference location.

(d) (1) The state body shall provide a means by which the public may remotely hear audio of the meeting, remotely observe the meeting, remotely address the body, or attend the meeting by providing on the posted agenda a teleconference telephone number, an internet website or other online platform, and a physical address for each teleconference location. The telephonic or online means provided to the public to access the meeting shall be equivalent to the telephonic or online means provided to a member of the state body participating remotely.

(2) The applicable teleconference telephone number, internet website or other online platform, and physical address of each teleconference location, as well as any other information indicating how the public can access the meeting remotely and in person, shall be specified in any notice required by this article.

(3) If the state body allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body shall do both of the following:

(A) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(B) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment.

(e) This section does not prohibit a state body from providing members of the public with additional locations from which the public may observe or address the state body by electronic means, through either audio or both audio and video.

(f) (1) The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7.

(2) Members of the public shall be entitled to exercise their right to directly address the state body during the teleconferenced meeting without being required to submit public comments before the meeting or in writing.

(g) The state body shall post the agenda on its internet website and, on the day of the meeting, at each teleconference location.

(h) This section does not affect the requirement prescribed by this article that the state body post an agenda of a meeting in accordance with the applicable notice requirements of this article, including Section 11125, requiring the state body to post an agenda of a meeting at least 10 days in advance of the meeting, Section 11125.4, applicable to special meetings, and Sections 11125.5 and 11125.6, applicable to emergency meetings.



- (i) At least one member of the state body shall be physically present at each teleconference location.
- (j) (1) Except as provided in paragraph (2), a majority of the members of the state body shall be physically present at the same teleconference location. Additional members of the state body in excess of a majority of the members may attend and participate in the meeting from a remote location. A remote location is not required to be accessible to the public. The notice and agenda shall not disclose information regarding a remote location.
- (2) A member attending and participating from a remote location may count toward the majority required to hold a teleconference if both of the following conditions are met:
  - (A) The member has a need related to a physical or mental disability, as those terms are defined in Sections 12926 and 12926.1, that is not otherwise reasonably accommodated pursuant to the federal Americans with Disability Act of 1990 (42 U.S.C. Sec. 12101 et seq.).
  - (B) The member notifies the state body at the earliest opportunity possible, including at the start of a meeting, of their need to participate remotely, including providing a general description of the circumstances relating to their need to participate remotely at the given meeting.
- (3) If a member notifies the body of the member's need to attend and participate remotely pursuant to paragraph (2), the body shall take action to approve the exception and shall request a general description of the circumstances relating to the member's need to participate remotely at the meeting, for each meeting in which the member seeks to participate remotely. The body shall not require the member to provide a general description that exceeds 20 words or to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code).
- (4) If a member of the state body attends the meeting by teleconference from a remote location, the member shall disclose whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.
- (k) (1) Except as provided in paragraph (2), the members of the state body shall visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform.
- (2) The visual appearance of a member of the state body on camera may cease only when the appearance would be technologically impracticable, including, but not limited to, when the member experiences a lack of reliable broadband or internet connectivity that would be remedied by joining without video, or when the visual display of meeting materials, information, or speakers on the internet or other online platform requires the visual appearance of a member of a state body on camera to cease.
- (3) If a member of the state body does not appear on camera due to challenges with internet connectivity, the member shall announce the reason for their nonappearance when they turn off their camera.
- (l) All votes taken during the teleconferenced meeting shall be by rollcall.
- (m) The state body shall publicly report any action taken and the vote or abstention on that action of each member present for the action.
- (n) The portion of the teleconferenced meeting that is closed to the public shall not include the consideration of any agenda item being heard pursuant to Section 11125.5.
- (o) Upon discovering that a means of remote public access and participation required by subdivision (d) has failed during a meeting and cannot be restored, the state body shall end or adjourn the meeting in accordance with Section 11128.5. In addition to any other requirements that may apply, the state body shall provide notice of the meeting's end or adjournment on the state body's internet website and by email to any person who has requested notice of meetings of the state body by email under this article. If the meeting will be adjourned and reconvened on the same day, further notice shall be provided by an automated message on a telephone line posted on the state body's agenda, internet website, or by a similar means, that will communicate when the state body intends to reconvene the meeting and how a member of the public may hear audio of the meeting or observe the meeting.
- (p) This section shall remain in effect only until January 1, ~~2026~~, 2030, and as of that date is repealed.

## **SEC. 2.**

Section 11123.5 of the Government Code, as amended by Section 2 of Chapter 216 of the Statutes of 2023, is amended to read:

- (a) For purposes of this section, the following definitions apply:



- (1) "Participate remotely" means participation in a meeting at a location other than the physical location designated in the agenda of the meeting.
- (2) "Remote location" means a location other than the primary physical location designated in the agenda of a meeting.
- (3) "Teleconference" has the same meaning as in Section 11123.
- (b) In addition to the authorization to hold a meeting by teleconference pursuant to subdivision (b) of Section 11123 or Section 11123.2, any state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body may hold an open meeting by teleconference as described in this section, provided the meeting complies with all of the section's requirements and, except as set forth in this section, it also complies with all other applicable requirements of this article.
- (c) A member of a state body as described in subdivision (b) who participates in a teleconference meeting from a remote location subject to this section's requirements shall be listed in the minutes of the meeting.
- (d) The state body shall provide notice to the public at least 24 hours before the meeting that identifies any member who will participate remotely by posting the notice on its internet website and by emailing notice to any person who has requested notice of meetings of the state body under this article. The location of a member of a state body who will participate remotely is not required to be disclosed in the public notice or email and need not be accessible to the public. The notice of the meeting shall also identify the primary physical meeting location designated pursuant to subdivision (f).
- (e) This section does not affect the requirement prescribed by this article that the state body post an agenda of a meeting at least 10 days in advance of the meeting. The agenda shall include information regarding the physical meeting location designated pursuant to subdivision (f), but is not required to disclose information regarding any remote location.
- (f) A state body described in subdivision (b) shall designate the primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting, observe and hear the meeting, and participate. At least one staff member of the state body shall be present at the primary physical meeting location during the meeting. The state body shall post the agenda at the primary physical meeting location, but need not post the agenda at a remote location.
- (g) When a member of a state body described in subdivision (b) participates remotely in a meeting subject to this section's requirements, the state body shall provide a means by which the public may remotely hear audio of the meeting or remotely observe the meeting, including, if available, equal access equivalent to members of the state body participating remotely. The applicable teleconference phone number or internet website, or other information indicating how the public can access the meeting remotely, shall be in the 24-hour notice described in subdivision (b) that is available to the public.
- (h) (1) Except as provided in paragraph (2), the members of the state body shall visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform.
- (2) The visual appearance of a member of a state body on camera may cease only when the appearance would be technologically impracticable, including, but not limited to, when the member experiences a lack of reliable broadband or internet connectivity that would be remedied by joining without video, or when the visual display of meeting materials, information, or speakers on the internet or other online platform requires the visual appearance of a member of a state body on camera to cease.
- (3) If a member of the body does not appear on camera due to challenges with internet connectivity, the member shall announce the reason for their nonappearance when they turn off their camera.
- (i) Upon discovering that a means of remote access required by subdivision (g) has failed during a meeting, the state body described in subdivision (b) shall end or adjourn the meeting in accordance with Section 11128.5. In addition to any other requirements that may apply, the state body shall provide notice of the meeting's end or adjournment on its internet website and by email to any person who has requested notice of meetings of the state body under this article. If the meeting will be adjourned and reconvened on the same day, further notice shall be provided by an automated message on a telephone line posted on the state body's agenda, or by a similar means, that will communicate when the state body intends to reconvene the meeting and how a member of the public may hear audio of the meeting or observe the meeting.
- (j) This section does not limit or affect the ability of a state body to hold a teleconference meeting under another provision of this article.
- (k) This section shall remain in effect only until January 1, ~~2026~~, 2030, and as of that date is repealed.

### **SEC. 3.**

*Section 11123.5 of the Government Code, as added by Section 3 of Chapter 216 of the Statutes of 2023, is amended to read:*

(a) In addition to the authorization to hold a meeting by teleconference pursuant to subdivision (b) of Section 11123, any state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body may hold an open meeting by teleconference as described in this section, provided the meeting complies with all of the section's requirements and, except as set forth in this section, it also complies with all other applicable requirements of this article.

(b) A member of a state body as described in subdivision (a) who participates in a teleconference meeting from a remote location subject to this section's requirements shall be listed in the minutes of the meeting.

(c) The state body shall provide notice to the public at least 24 hours before the meeting that identifies any member who will participate remotely by posting the notice on its internet website and by emailing notice to any person who has requested notice of meetings of the state body under this article. The location of a member of a state body who will participate remotely is not required to be disclosed in the public notice or email and need not be accessible to the public. The notice of the meeting shall also identify the primary physical meeting location designated pursuant to subdivision (e).

(d) This section does not affect the requirement prescribed by this article that the state body post an agenda of a meeting at least 10 days in advance of the meeting. The agenda shall include information regarding the physical meeting location designated pursuant to subdivision (e), but is not required to disclose information regarding any remote location.

(e) A state body described in subdivision (a) shall designate the primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate. A quorum of the members of the state body shall be in attendance at the primary physical meeting location, and members of the state body participating remotely shall not count towards establishing a quorum. All decisions taken during a meeting by teleconference shall be by rollcall vote. The state body shall post the agenda at the primary physical meeting location, but need not post the agenda at a remote location.

(f) When a member of a state body described in subdivision (a) participates remotely in a meeting subject to this section's requirements, the state body shall provide a means by which the public may remotely hear audio of the meeting or remotely observe the meeting, including, if available, equal access equivalent to members of the state body participating remotely. The applicable teleconference phone number or internet website, or other information indicating how the public can access the meeting remotely, shall be in the 24-hour notice described in subdivision (a) that is available to the public.

(g) Upon discovering that a means of remote access required by subdivision (f) has failed during a meeting, the state body described in subdivision (a) shall end or adjourn the meeting in accordance with Section 11128.5. In addition to any other requirements that may apply, the state body shall provide notice of the meeting's end or adjournment on its internet website and by email to any person who has requested notice of meetings of the state body under this article. If the meeting will be adjourned and reconvened on the same day, further notice shall be provided by an automated message on a telephone line posted on the state body's agenda, or by a similar means, that will communicate when the state body intends to reconvene the meeting and how a member of the public may hear audio of the meeting or observe the meeting.

(h) For purposes of this section:

(1) "Participate remotely" means participation in a meeting at a location other than the physical location designated in the agenda of the meeting.

(2) "Remote location" means a location other than the primary physical location designated in the agenda of a meeting.

(3) "Teleconference" has the same meaning as in Section 11123.

(i) This section does not limit or affect the ability of a state body to hold a teleconference meeting under another provision of this article.

(j) This section shall become operative on January 1, ~~2026~~ 2030.

### **SEC. 4.**

*The Legislature finds and declares that Section 1 of this act, which amends Section 11123.2 of the Government Code, and Sections 2 and 3 of this act, which amend and repeal Section 11123.5 of the Government Code, modify the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:*

*(a) By continuing to ensure that agendas are not required to be posted at, and that agendas and notices do not disclose information regarding, the location of each public official participating in a public meeting remotely, including from the member's private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.*

*(b) During the COVID-19 public health emergency, audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and those public meetings have been productive, increased public participation by all members of the public regardless of their location and ability to travel to physical meeting locations, increased the pool of people who are able to serve on these bodies, protected the health and safety of civil servants and the public, and have reduced travel costs incurred by members of state bodies and reduced work hours spent traveling to and from meetings.*

*(c) Conducting audio and video teleconference meetings enhances public participation and the public's right of access to meetings of the public bodies by improving access for individuals who often face barriers to physical attendance.*

# SB 497 - (A) Amends the Law

## SECTION 1.

*(a) The Legislature find and declares that California residents and visitors, especially transgender and gender nonconforming people, are being targeted for harassment, intimidation, and other harm, as are family members, teachers, and others who support them. The Legislature intends to comprehensively protect these Californians and visitors from both in-state and out-of-state abuse, including from individuals purporting to act on behalf of the United States Government.*

*(b) It is the intent of the Legislature to ensure that educators that may face retaliation or prosecution under President Trump's Executive Order on Ending Radical Indoctrination in K-12 Schooling for prioritizing the safety and well-being of transgender youth are protected.*

## SEC. 2.

Section 56.109 of the Civil Code is amended to read:

(a) Notwithstanding subdivision (b) of Section 56.10, a provider of health care, health care service plan, or contractor shall not release medical information related to a person ~~or seeking or obtaining gender-affirming health care or gender-affirming mental health care or a person or~~ entity allowing a child to receive gender-affirming health care or gender-affirming mental health care in response to any ~~civil action, subpoena or request,~~ including a foreign subpoena, based on another state's law that ~~interferes with an individual's right to seek or obtain gender-affirming health care or gender-affirming mental health care or~~ authorizes a person to bring a civil ~~or criminal~~ action against a person or entity that allows a child to receive gender-affirming health care or gender-affirming mental health care.

(b) Notwithstanding subdivision (c) of Section 56.10, a provider of health care, health care service plan, or contractor shall not release medical information to persons or entities who have requested that information and who are authorized by law to receive that information pursuant to subdivision (c) of Section 56.10, if the information is related to ~~an individual seeking or obtaining gender-affirming health care or gender-affirming mental health care or to~~ a person or entity allowing a child to receive gender-affirming health care or gender-affirming mental health care, and the information is being requested pursuant to another state's law that authorizes a person to bring a civil ~~or criminal~~ action against a person or entity ~~that provides, seeks, obtains, or receives gender-affirming health care or gender-affirming mental health care or~~ who allows a child to receive gender-affirming health care or gender-affirming mental health care.

*(c) Notwithstanding subdivisions (b) and (c) of Section 56.10 or subdivision (c) of Section 56.20, a provider of health care, health care service plan, contractor, or employer shall not cooperate with any inquiry or investigation by, or provide medical information to, any individual, agency, or department from another state or, to the extent permitted by federal law, to a federal law enforcement agency that would identify an individual and that is related to an individual seeking or obtaining gender-affirming health care or gender-affirming mental health care that is lawful under the laws of this state.*

*(d) This section does not prohibit compliance with the investigation of activity that is punishable as a crime under the laws of this state.*

~~(e) (e) For the purposes of this section, "person" means an individual or governmental subdivision, agency, or instrumentality. the following terms have the following meanings:~~

~~(d) (1) For the purpose of this section, "gender-affirming-~~ "Gender-affirming health care" and "gender-affirming mental health care" shall have the same meaning as provided in Section 16010.2 of the Welfare and Institutions Code.

*(2) "Person" means an individual or governmental subdivision, agency, or instrumentality.*

## SEC. 3.

Section 2029.300 of the Code of Civil Procedure is amended to read:

(a) To request issuance of a subpoena under this section, a party shall submit the original or a true and correct copy of a foreign subpoena to the clerk of the superior court in the county in which discovery is

sought to be conducted in this state. A request for the issuance of a subpoena under this section does not constitute making an appearance in the courts of this state.

(b) In addition to submitting a foreign subpoena under subdivision (a), a party seeking discovery shall do both of the following:

(1) Submit an application requesting that the superior court issue a subpoena with the same terms as the foreign subpoena. The application shall be on a form prescribed by the Judicial Council pursuant to Section 2029.390. No civil case cover sheet is required.

(2) Pay the fee specified in Section 70626 of the Government Code.

(c) When a party submits a foreign subpoena to the clerk of the superior court in accordance with subdivision (a), and satisfies the requirements of subdivision (b), the clerk shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.

(d) A subpoena issued under this section shall satisfy all of the following conditions:

(1) It shall incorporate the terms used in the foreign subpoena.

(2) It shall contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

(3) It shall bear the caption and case number of the out-of-state case to which it relates.

(4) It shall state the name of the court that issues it.

(5) It shall be on a form prescribed by the Judicial Council pursuant to Section 2029.390.

(e) Notwithstanding subdivision (a), a subpoena shall not be issued pursuant to this section in any of the following circumstances:

(1) If the foreign subpoena is based on a violation of another state's laws that interfere with a person's right to [seek or obtain gender-affirming health care or gender-affirming mental health care or to](#) allow a child to receive gender-affirming health care or gender-affirming mental health care. For the purpose of this paragraph, "gender-affirming health care" and "gender-affirming mental health care" shall have the same meaning as provided in Section 16010.2 of the Welfare and Institutions Code.

(2) If the submitted foreign subpoena relates to a foreign penal civil action and would require disclosure of information related to sensitive services. For purposes of this paragraph, "sensitive services" has the same meaning as defined in Section 791.02 of the Insurance Code.

#### **SEC. 4.**

Section 2029.350 of the Code of Civil Procedure is amended to read:

(a) Notwithstanding Sections 1986 and 2029.300, if a party to a proceeding pending in a foreign jurisdiction retains an attorney licensed to practice in this state, who is an active member of the State Bar, and that attorney receives the original or a true and correct copy of a foreign subpoena, the attorney may issue a subpoena under this article.

(b) (1) Notwithstanding subdivision (a), an authorized attorney shall not issue a subpoena pursuant to subdivision (a) if the foreign subpoena is based on a violation of another state's laws that interfere with a person's right to [seek or obtain gender-affirming health care or gender-affirming mental health care or to](#) allow a child to receive gender-affirming health care or gender-affirming mental health care.

(2) For the purpose of this subdivision, "gender-affirming health care" and "gender-affirming mental health care" shall have the same meaning as provided in Section 16010.2 of the Welfare and Institutions Code.

(c) Notwithstanding subdivision (a), an attorney shall not issue a subpoena under this article based on a foreign subpoena that relates to a foreign penal civil action and that would require disclosure of information related to sensitive services. For purposes of this subdivision, "sensitive services" has the same meaning as defined in Section 791.02 of the Insurance Code.

(d) A subpoena issued under this section shall satisfy all of the following conditions:

(1) It shall incorporate the terms used in the foreign subpoena.

(2) It shall contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

(3) It shall bear the caption and case number of the out-of-state case to which it relates.

(4) It shall state the name of the superior court of the county in which the discovery is to be conducted.

(5) It shall be on a form prescribed by the Judicial Council pursuant to Section 2029.390.

#### **SEC. 5.**

Section 11165 of the Health and Safety Code is amended to read:

(a) To assist health care practitioners in their efforts to ensure appropriate prescribing, ordering, administering, furnishing, and dispensing of controlled substances, law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of Schedule II, Schedule III, Schedule IV, and Schedule V controlled substances, and for statistical analysis, education, and research, the Department of Justice shall, contingent upon the availability of adequate funds in the CURES Fund, maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of, and internet access to information regarding, the prescribing and dispensing of Schedule II, Schedule III, Schedule IV, and Schedule V controlled substances by all practitioners authorized to prescribe, order, administer, furnish, or dispense these controlled substances.

(b) The department may seek and use grant funds to pay the costs incurred by the operation and maintenance of CURES. The department shall annually report to the Legislature and make available to the public the amount and source of funds it receives for support of CURES.

(c) (1) The operation of CURES shall comply with all applicable federal and state privacy and security laws and regulations.

(2) (A) CURES shall operate under existing provisions of law to safeguard the privacy and confidentiality of patients. Data obtained from CURES shall only be provided to appropriate state, local, and federal public agencies for disciplinary, civil, or criminal purposes and to other agencies or entities, as determined by the department, for the purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Data may be provided to public or private entities, as approved by the department, for educational, peer review, statistical, or research purposes, if patient information, including information that may identify the patient, is not compromised. The University of California shall be provided access to identifiable data for research purposes if the requirements of subdivision (t) of Section 1798.24 of the Civil Code are satisfied. Further, data disclosed to an individual or agency as described in this subdivision shall not be disclosed, sold, or transferred to a third party, unless authorized by, or pursuant to, state and federal privacy and security laws and regulations. The department shall establish policies, procedures, and regulations regarding the use, access, evaluation, management, implementation, operation, storage, disclosure, and security of the information within CURES, consistent with this subdivision.

(B) Notwithstanding subparagraph (A), a regulatory board whose licensees do not prescribe, order, administer, furnish, or dispense controlled substances shall not be provided data obtained from CURES.

*(C) (i) Notwithstanding subparagraph (A) or any other law, a state or local agency or employee, appointee, officer, contractor, or official or any other person acting on behalf of a public agency shall not knowingly provide any CURES data or knowingly expend or use time, money, facilities, property, equipment, personnel, or other resources in furtherance of any interstate investigation or proceeding seeking to impose civil, criminal, or disciplinary liability upon the provision or receipt of legally protected health care activity, as defined in Section 1798.300 of the Civil Code.*

*(ii) This section does not prohibit the investigation of any activity that is punishable as a crime under the laws of this state so long as CURES data related to any legally protected health care activity, as defined in Section 1798.300 of the Civil Code, is not knowingly shared with any individual or entity from another state.*

(3) The department ~~shall, no later than January 1, 2021,~~ *may* adopt regulations regarding the access and use of the information within CURES. The department shall consult with all stakeholders identified by the department during the rulemaking process. The regulations shall, at a minimum, address all of the following in a manner consistent with this chapter:

(A) The process for approving, denying, and disapproving individuals or entities seeking access to information in CURES.

(B) The purposes for which a health care practitioner may access information in CURES.

(C) The conditions under which a warrant, subpoena, or court order is required for a law enforcement agency to obtain information from CURES as part of a criminal investigation.

(D) The process by which information in CURES may be provided for educational, peer review, statistical, or research purposes.

(4) In accordance with federal and state privacy laws and regulations, a health care practitioner may provide a patient with a copy of the patient's CURES patient activity report as long as no additional CURES data are provided and the health care practitioner keeps a copy of the report in the patient's medical record in compliance with subdivision (d) of Section 11165.1.



(d) For each prescription for a Schedule II, Schedule III, Schedule IV, or Schedule V controlled substance, as defined in the controlled substances schedules in federal law and regulations, specifically Sections 1308.12, 1308.13, 1308.14, and 1308.15, respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy, clinic, or other dispenser shall report the following information to the department or contracted prescription data processing vendor as soon as reasonably possible, but not more than one working day after the date a controlled substance is released to the patient or patient's representative, in a format specified by the department:

(1) Full name, address, and, if available, telephone number of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services, and the gender and date of birth of the ultimate user.

(2) The prescriber's category of licensure, license number, national provider identifier (NPI) number, if applicable, the federal controlled substance registration number, and the state medical license number of a prescriber using the federal controlled substance registration number of a government-exempt facility.

(3) Pharmacy prescription number, license number, NPI number, and federal controlled substance registration number.

(4) National Drug Code (NDC) number of the controlled substance dispensed.

(5) Quantity of the controlled substance dispensed.

(6) The International Statistical Classification of Diseases (ICD) Code contained in the most current ICD revision, or any revision deemed sufficient by the State Board of Pharmacy, if available.

(7) Number of refills ordered.

(8) Whether the drug was dispensed as a refill of a prescription or as a first-time request.

(9) Prescribing date of the prescription.

(10) Date of dispensing of the prescription.

(11) The serial number for the corresponding prescription form, if applicable.

(e) The department may invite stakeholders to assist, advise, and make recommendations on the establishment of rules and regulations necessary to ensure the proper administration and enforcement of the CURES database. A prescriber or dispenser invitee shall be licensed by one of the boards or committees identified in subdivision (d) of Section 208 of the Business and Professions Code, in active practice in California, and a regular user of CURES.

(f) The department shall, prior to upgrading CURES, consult with prescribers licensed by one of the boards or committees identified in subdivision (d) of Section 208 of the Business and Professions Code, one or more of the boards or committees identified in subdivision (d) of Section 208 of the Business and Professions Code, and any other stakeholder identified by the department, for the purpose of identifying desirable capabilities and upgrades to the CURES Prescription Drug Monitoring Program (PDMP).

(g) The department may establish a process to educate authorized subscribers of the CURES PDMP on how to access and use the CURES PDMP.

(h) (1) The department may enter into an agreement with an entity operating an interstate data sharing hub, or an agency operating a prescription drug monitoring program in another state, for purposes of interstate data sharing of prescription drug monitoring program information. *An out-of-state authorized user who obtains CURES data through the interstate data sharing hub shall not provide any CURES data in furtherance of any investigation or proceeding seeking to impose civil, criminal, or disciplinary liability upon the provision or receipt of legally protected health care activity, as defined in Section 1798.300 of the Civil Code.*

(2) Data obtained from CURES may be provided to authorized users of another state's prescription drug monitoring program, as determined by the department pursuant to subdivision (c), if the entity operating the interstate data sharing hub, and the prescription drug monitoring program of that state, as applicable, have entered into an agreement with the department for interstate data sharing of prescription drug monitoring program information.

(3) An agreement entered into by the department for purposes of interstate data sharing of prescription drug monitoring program information shall ensure that all access to data obtained from CURES and the handling of data contained within CURES comply with California law, including regulations, and meet the same patient privacy, audit, and data security standards employed and required for direct access to CURES.

(4) For purposes of interstate data sharing of CURES information pursuant to this subdivision, an authorized user of another state's prescription drug monitoring program shall not be required to register

with CURES, if the authorized user is registered and in good standing with that state's prescription drug monitoring program.

(5) The department shall not enter into an agreement pursuant to this subdivision until the department has issued final regulations regarding the access and use of the information within CURES as required by paragraph (3) of subdivision (c).

*(6) Notwithstanding subdivision (c), the department shall not provide CURES data to out-of-state law enforcement absent a warrant, subpoena, or court order, issued pursuant to Section 2029.300 or 2029.350 of the Code of Civil Procedure, or Section 1326 of the Penal Code.*

(i) Notwithstanding subdivision (d), a veterinarian shall report the information required by that subdivision to the department as soon as reasonably possible, but not more than seven days after the date a controlled substance is dispensed.

(j) If the dispensing pharmacy, clinic, or other dispenser experiences a temporary technological or electrical failure, it shall, without undue delay, seek to correct any cause of the temporary technological or electrical failure that is reasonably within its control. The deadline for transmitting prescription information to the department or contracted prescription data processing vendor pursuant to subdivision (d) shall be extended until the failure is corrected. If the dispensing pharmacy, clinic, or other dispenser experiences technological limitations that are not reasonably within its control, or is impacted by a natural or manmade disaster, the deadline for transmitting prescription information to the department or contracted prescription data processing vendor shall be extended until normal operations have resumed.

*(k) (1) Any person who accesses the CURES database and who is not authorized by law to do so is guilty of a misdemeanor.*

*(2) Any person authorized by law to access the CURES database and who knowingly furnishes the information from the CURES database to a person who is not authorized by law to receive that information is guilty of a misdemeanor.*

*(3) This subdivision does not apply to a provider of health care as defined in Section 56.06 of the Civil Code that is subject to applicable state and federal medical privacy laws.*

## **SEC. 6.**

Section 1326 of the Penal Code is amended to read:

(a) The process by which the attendance of a witness before a court or magistrate is required is a subpoena. It may be signed and issued by any of the following:

(1) A magistrate before whom a complaint is laid or their clerk, the district attorney or their investigator, or the public defender or their investigator, for witnesses in the state.

(2) The district attorney, their investigator, or, upon request of the grand jury, any judge of the superior court, for witnesses in the state, in support of an indictment or information, to appear before the court in which it is to be tried.

(3) The district attorney or their investigator, the public defender or their investigator, or the clerk of the court in which a criminal action is to be tried. The clerk shall, at any time, upon application of the defendant, and without charge, issue as many blank subpoenas, subscribed by them, for witnesses in the state, as the defendant may require.

(4) The attorney of record for the defendant.

(b) A subpoena issued in a criminal action that commands the custodian of records or other qualified witness of a business to produce books, papers, documents, or records shall direct that those items be delivered by the custodian or qualified witness in the manner specified in subdivision (b) of Section 1560 of the Evidence Code. Subdivision (e) of Section 1560 of the Evidence Code shall not apply to criminal cases.

(c) (1) Notwithstanding subdivision (b), a provider of health care, health care service plan, or contractor shall not release medical information related to *an individual seeking or obtaining gender-affirming health care or gender-affirming mental health care or* a person or entity allowing a child to receive gender-affirming health care or gender-affirming mental health care in response to any foreign subpoena that is based on a violation of another state's laws authorizing a criminal action *that interferes with an individual's rights to seek or obtain gender-affirming health care or gender-affirming mental health care or* against a person or entity that allows a child to receive gender-affirming health care or gender-affirming mental health care.



(2) For the purpose of this subdivision, “gender-affirming health care” and “gender-affirming mental health care” shall have the same meaning as provided in Section 16010.2 of the Welfare and Institutions Code.

*(d) Notwithstanding subdivision (b), a provider of health care, health care service plan, or contractor shall not release medical information related to sensitive services in response to any foreign subpoena that is based on a violation of another state’s laws authorizing a criminal action against a person or entity for the provision or receipt of legally protected health care activity, as defined in Section 1798.300 of the Civil Code. For purposes of this subdivision, “sensitive services” has the same meaning as defined in Section 791.02 of the Insurance Code.*

~~(d)~~ (e) In a criminal action, no party, or attorney or representative of a party, may issue a subpoena commanding the custodian of records or other qualified witness of a business to provide books, papers, documents, or records, or copies thereof, relating to a person or entity other than the subpoenaed person or entity in any manner other than that specified in subdivision (b) of Section 1560 of the Evidence Code. When a defendant has issued a subpoena to a person or entity that is not a party for the production of books, papers, documents, or records, or copies thereof, the court may order an in camera hearing to determine whether or not the defense is entitled to receive the documents. The court may not order the documents disclosed to the prosecution except as required by Section 1054.3.

~~(e)~~ (f) This section shall not be construed to prohibit obtaining books, papers, documents, or records with the consent of the person to whom the books, papers, documents, or records relate.

## **SEC. 7.**

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

# SB 641 - (A) Amends the Law

## SECTION 1.

*It is the intent of the Legislature to provide boards, bureaus, commissions, and regulatory entities within the jurisdiction of the Department of Consumer Affairs and the Department of Real Estate with authority to address licensing and enforcement concerns in real time after an emergency is declared. The Legislature does not intend for any provision of this bill to require regulations to implement.*

## SEC. 2.

*Section 108.1 is added to the Business and Professions Code, to read:*

*(a) For purposes of this section, "disaster area" means an area for which a federal, state, or local emergency or disaster has been declared.*

*(b) To aid in the protection of the public health, the provision of patient care, the continuity of services, and to support impacted individuals, the Department of Real Estate or any board under the jurisdiction of the Department of Consumer Affairs, as specified in Section 101, may waive the application of any provision of law that the board or department is charged with enforcing for licensees and applicants impacted by a declared federal, state, or local emergency or whose home or business is located in a disaster area, that is related to any of the following:*

*(1) Examination eligibility and timing requirements.*

*(2) Licensure renewal deadlines.*

*(3) Continuing education completion deadlines.*

*(4) License display requirements.*

*(5) Fee submission timing requirements.*

*(6) Delinquency fees.*

*(c) The authority specified in subdivision (b) shall extend through the duration of a declared federal, state, or local emergency or disaster for licensees and applicants located in a disaster area and for either of the following, as determined by the board or the Department of Real Estate and will aid in the protection of the public health, the provision of patient care, the continuity of services, or the support of impacted individuals:*

*(1) One year after the end of the declared emergency or disaster.*

*(2) An additional period of time beyond one year after the end of the declared emergency or disaster, as determined by the board or the Department of Real Estate.*

## SEC. 3.

*Section 122 of the Business and Professions Code is amended to read:*

*(a) Except as specified in subdivision (b) or otherwise provided by law, the department and each of the boards, bureaus, committees, and commissions within the department may charge a fee for the processing and issuance of a duplicate copy of any certificate of licensure or other form evidencing licensure or renewal of licensure. The fee shall be in an amount sufficient to cover all costs incident to the issuance of the duplicate certificate or other form but shall not exceed twenty-five dollars (\$25).*

*(b) This section shall not apply to a licensee impacted by a declared federal, state, or local emergency or disaster or whose home or business is located in an area for which a federal, state, or local emergency or disaster has been declared.*

## SEC. 4.

*Section 136 of the Business and Professions Code is amended to read:*

*(a) Each person holding a license, certificate, registration, permit, or other authority to engage in a profession or occupation issued by a board within the department shall notify the issuing board at its principal office of any change in the person's mailing address within 30 days after the change, unless the board has specified by regulations a shorter time period.*

(b) Except as otherwise provided by law, failure of a licensee to comply with the requirement in subdivision (a) constitutes grounds for the issuance of a citation and administrative fine, if the board has the authority to issue citations and administrative fines.

*(c) This section shall not apply to a licensee whose home or business mailing address is located in an area for which a federal, state, or local emergency or disaster area is declared.*

#### **SEC. 5.**

*Section 136.5 is added to the Business and Professions Code, to read:*

*Every applicant for licensure and every licensee of the Department of Real Estate or a board under the jurisdiction of the Department of Consumer Affairs, as specified in Section 101, shall provide the Department of Real Estate or the board with an email address.*

#### **SEC. 6.**

*Section 7058.9 is added to the Business and Professions Code, to read:*

#### **SEC. 7.**

*Section 10089 is added to the Business and Professions Code, to read:*

#### **SEC. 8.**

Section 10176 of the Business and Professions Code is amended to read:

#### **SEC. 9.**

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

#### **SEC. 10.**

*This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect.*

*The facts constituting the necessity are:*

*In order to support licensed professionals impacted by the disasters caused by the Palisades and Eaton wildfires, it is necessary that this act take effect immediately.*

# MEMORANDUM

DATE	April 16, 2025
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Cherise Burns, Executive Officer
SUBJECT	Agenda Item 9: Update and Discussion on the Audiology & Speech-Language Pathology Interstate Compact (ASLP-IC)

## **Background**

Board Members requested an update on the interstate licensing compact for audiology and speech-language pathology.

A presentation on the ASLP-IC (The Compact) was provided to the Board at their meeting on May 12-13, 2022. At the time of that presentation, the Compact was not operational.

The information below is the February 2025 status update from The Compact website at <https://aslpcompact.com/>:

*The ASLP-IC is an interstate compact, or formal agreement among states, that facilitates interstate practice of audiology and speech-language pathology.*

*Under the ASLP-IC, audiologists and speech-language pathologists who are licensed in good standing in a compact member state will be eligible to practice in other compact member states via a “compact privilege,” which is equivalent to a license.*

*The ASLP-ICC is not yet issuing compact privileges to practice. Throughout 2024, the Commission is working with developers to create the necessary data system to receive applications, provide interstate data communications, and issue privileges to practice. It is anticipated that the ASLP-ICC will begin issuing compact privileges to practice in late summer 2025.*

*At this time, 34 states and 1 territory have enacted ASLP-IC legislation to be part of the compact. However, the ASLP-IC is not yet operationalized, meaning the process to apply for and receive compact privileges is in the works. The Commission is working with developers to create the necessary data system to receive applications, provide interstate data communications, and issue privileges to practice. It is anticipated that the ASLP-ICC will begin issuing compact privileges to practice in late summer 2025.*

For more information about the process to develop the comprehensive data system, please visit: [www.compactconnect.org](http://www.compactconnect.org).

The current member states are: Alabama, Alaska, Arkansas, Colorado, Delaware, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, West Virginia, Wisconsin and Wyoming.

The interactive state map lists the current ASLP-IC member states and other states proposing to join the ASLP-IC.

The ASLP-IC Commission has established rules and bylaws to implement the compact. Committees meet on a regular basis and are open to the public. You can find more information here.

**Please see this page for additional updates from the ASLP-IC Commission.**

The ASLP-IC offers several benefits to the public:

- Improves continuity of care
- Improves portability for military spouses
- Improves access to audiology and speech-language pathology providers
- Increases choice of audiology and speech-language pathology providers
- Facilitates alternate delivery methods (Telehealth)
- Simplifies/speeds up the current process
- Addresses portability & barriers to access
- Practice of audiology and speech-language pathology occurs in the state where the patient/client is located at the time of the patient/client encounter

The Board made researching the impact of joining the interstate compact as one of its goals in its 2025-2028 Strategic plan. The following are issues the Board should consider in its research once The Compact is operationalized and starts issuing compact privileges:

- Costs involved to join the compact, including workload dedicated to statutory and regulatory changes,
- The compact's impact on the Board's jurisdiction to discipline individuals who violate California laws while providing speech and hearing services to California consumers, and
- The compact's impact on the Board's enforcement procedures, workload, and costs potentially without adequate cost recovery.

### **Action Requested**

This item is for informational purposes only, no action is required.

## MEMORANDUM

DATE	April 11, 2025
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Cherise Burns, Executive Officer
SUBJECT	Agenda Item 10: Discussion and Possible Action to Review and Revise the Board's Administrative Procedure Manual

### **Background**

Boards and bureaus under the Department of Consumer Affairs (DCA) adopt Administrative Procedure Manuals to provide guidance to Board Members regarding the roles and responsibilities of their position, rules of conduct, and the general processes and procedures to be followed in completing Board business. The Administrative Procedure Manual also provides transparency to the public on the Board's governance and administrative structure and the way the Board operates.

The Board reviewed revision to the 2023 Board Administrative Procedure Manual including changes to the California Department of Justice Bagley-Keene Open Meeting Act Guide and DCA Travel Guide at its December 2024 meeting. The Board recommended additional edits including extensive edits to the information in Chapter 7 regarding complaint and disciplinary process.

### **Action Requested**

Staff recommend the Board review and discuss the materials provided. The Board may wish to determine whether to approve the 2025 Board Administrative Procedure Manual as noticed/amended.

Attachment: 2025 Board Administrative Procedure Manual



# **Board Administrative Procedure Manual**

**Month 202X**

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**ATTACHMENTS**

Attachment A: Guide to the Bagley-Keene Open Meeting Act  
Attachment B: Department of Consumer Affairs Travel Guide  
Attachment C: Sunset Review Report  
Attachment D: Strategic Plan  
Attachment E: Law Book

## **CHAPTER 1. INTRODUCTION**

### **Overview**

In 1973, the Legislature established the Speech-Language Pathology and Audiology Board (SLPAB) to protect the public from the unauthorized and unqualified practice of speech-language pathology and audiology. The SLPAB licensed speech-language pathologists and audiologists. A speech-language pathologist provides services in the areas of speech, language, voice, cognition, fluency, and swallowing disorders to individuals across the lifespan. They see individuals who may have language difficulties with verbal expression, auditory comprehension, reading comprehension, and/or written expression. A speech-language pathologist also provides aural rehabilitation for individuals who are deaf or hard of hearing and provides therapy in the augmentative and alternative communication domain for individuals with diagnoses such as autism spectrum disorder and progressive neurological disorders. An audiologist provides services for individuals with hearing loss and balance (vestibular) disorders across the lifespan.

In 2001, the Legislature created the Hearing Aid Dispensers Bureau (HADB) as the licensing and regulatory agency for hearing aid dispensers, defined in statute as individuals engaged in the fitting or selling of hearing aids to an individual with impaired hearing. The HADB was charged with the education and protection of consumers in the purchase of hearing aids by ensuring the competency of hearing aid dispensers.

In 2010 the SLPAB and HADB were merged to create a new entity, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Board). It also changed the governance structure of the Board to the following: two speech-language pathologists, two audiologists (one of whom must be a dispensing audiologist), and two hearing aid dispensers, all to be appointed by the Governor. The Governor also has the appointing authority for a public member seat to be occupied by a licensed physician and surgeon, certified in otolaryngology. Two other public member seats are to be appointed by the Senate Committee on Rules and the Speaker of the Assembly, respectively. Board members may serve up to two, four-year terms. Board members are paid \$100 for each day actually spent in the discharge of official duties and are reimbursed travel expenses.

The Board is one of the boards, bureaus, commissions, and committees within the Department of Consumer Affairs (DCA), part of the Business, Consumer Services and Housing Agency under the aegis of the Governor. DCA is responsible for consumer protection and representation through the regulation of licensed professions and the provision of consumer services. While DCA provides administrative oversight and support services, the Board has policy autonomy and sets its own policies, procedures, and initiates its own regulations.

Protection of the public is the highest priority for the Board in exercising its licensing, regulatory and disciplinary functions. Whenever the protection of the public is

inconsistent with other interests sought to be promoted, the protection of the public shall be paramount (Business and Professions Code (BPC) §2531.02.)

The purpose of this handbook is to provide guidance to Board members regarding general processes and procedures involved with their position on the Board. It also serves as a useful source of information for new Board members as part of the induction process.

### **Mission**

We protect the people of California by promoting standards and enforcing the laws and regulations that ensure the qualifications and competence of providers of speech-language pathology, audiology and hearing aid dispensing services.

### **Vision**

Every person in the State of California has access to the highest quality diagnosis and treatment of communication and hearing disorders, and related services.

### **Values**



### **Board Function**

The Board regulates the practices of speech-language pathology, audiology, and hearing aid dispensing in California by licensing those who meet minimum standards of competency. Among its functions, the Board promulgates laws and regulations; issues, renews, suspends, and revokes licenses; and imposes disciplinary sanctions, when necessary.

### **General Rules of Conduct**

The following rules of conduct detail expectations of Board members. The Board is comprised of both public and professional members with the intention that, together, the Board can collectively protect the public and regulate the speech-language pathology, audiology and hearing aid dispensing professions.

- Board members' actions shall serve to uphold the principle that the Board's primary mission is to protect the public.
- Board members shall recognize the equal role and responsibilities of all Board members.
- Board members shall adequately prepare for Board responsibilities.
- Board members shall not speak or act for the Board without proper authorization.
- Board members shall maintain the confidentiality of non-public documents and information.
- Board members shall act fairly and be nonpartisan, impartial and unbiased in their role of protecting the public.
- Board members shall treat all applicants, candidates, and licensees in a fair and impartial manner.
- Board members shall not use their positions on the Board for personal, familial or financial gain.

## **CHAPTER 2. BOARD MEETING PROCEDURES**

All healing arts boards under DCA, including the Board must meet in accordance with the provisions set forth by the Bagley-Keene Open Meeting Act. The Board will use Robert's Rules of Order, to the extent that it does not conflict with state law (e.g., Bagley-Keene Open Meeting Act), as a guide when conducting the meetings.

### **Bagley-Keene Open Meetings Act**

The Bagley-Keene Act of 1967, officially known as the Bagley-Keene Open Meeting Act, implements a provision of the California Constitution which declares that "the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny", and explicitly mandates open meetings for California State agencies, Boards, and commissions. The act facilitates accountability and transparency of government activities and protects the rights of citizens to participate in State government deliberations. Similarly, California's Brown Act of 1953 protects citizen rights with regard to open meetings at the county and local government level.

The Bagley-Keene Act stipulates that the Board is to provide adequate notice of meetings to be held to the public as well as provide an opportunity for public comment. The meeting is to be conducted in an open session, except where closed session is specifically noted.

The Bagley-Keene Act also stipulates that a majority of the Board members cannot participate in a series of communications of any kind, directly or through personal intermediaries, or technological devices (such as email) to discuss, deliberate, or take action on any matter within the subject matter of the Board's jurisdiction outside of the Board meetings.

To learn all of the provisions set forth by the Bagley-Keene Open Meeting Act, see Attachment A entitled *Guide to the Bagley-Keene Open Meeting Act*.

### **Frequency of Meetings**

The Board is mandated to hold two meetings annually (BPC section 101.7) but generally meets four times annually to make policy decisions and review committee recommendations. Additional meetings may be called by the Chair or by written request of any two members of the Board. The Board is required to hold at least one meeting in Northern California and one meeting in Southern California, but endeavors to meet in different geographic locations throughout the state when possible as a convenience to the public and licensees. To enhance opportunities for public participation, web-based teleconference is offered at all meetings, when available.

### **Board Member Attendance at Board Meetings**

Board members must attend each meeting of the Board. Meeting dates are approved by the Board at the last Board meeting of the calendar year.

If a member is unable to attend, they are asked to contact the Board Chair and the Executive Officer and provide a reason to be excused from the meeting.

### **Quorum**

Five Board members constitute a quorum of the Board for the transaction of business. Either having members physically in attendance or by teleconference, with proper notice, can meet the requirement for a quorum. The concurrence of a majority of those members of the Board present and voting at a meeting duly held at which a quorum is present shall be necessary to constitute an act or decision of the Board.

### **Agenda Items (Government Code (GC) § 11125 et seq.)**

Any Board members may submit items for a Board Meeting agenda to the Board Chair with a copy to the Executive Officer six to eight weeks prior to the meeting. Members may also recommend agenda items for a future meeting agenda during a meeting under Future Agenda Items. A motion and vote may be taken but is not necessary. The Board Chair will confer with the Executive Officer and Board Legal Counsel regarding the future agenda items. It will be a standing item to review the status of future agenda items that have been recommend by Board members that may not have made the current Board Meeting agenda.

Staff maintains a list of action items to research and bring back to a future Board Meeting. Staff may recommend the issue be referred to a Committee first to be vetted. Prior to items being placed on the agenda, staff conducts research to determine if an item is appropriate for Board discussion. This research starts with identifying how the item meets our mandate to protect the health and safety of California consumers. In addition, staff researches potential benefits to the State, identifies the current professional trends and what other states are doing. For items requiring legislative and/or regulatory changes, staff identifies potential concerns by anticipating who would be in support of or in opposition to the bill and/or rulemaking.

No item shall be added to the agenda subsequent to the provision of the meeting notice.

If the agenda contains matters that are appropriate for closed session, the agenda shall cite the particular statutory section and subdivision authorizing the closed session.

Items not included on the agenda may not be discussed.

### **Notice of Meetings (GC § 11120 et seq.)**

The minutes are a summary, not a transcript, of each Board Meeting. They shall be prepared by Board staff and submitted for review by Board members before the next

Board Meeting. Board Minutes shall be approved at the next scheduled meeting of the Board. When approved, the minutes shall serve as the official record of the meeting and be made available to the public on the Board's website.

### **Recording of Meetings**

The meetings are recorded and available to the public on the Board's website.

### **Use of Electronic Devices During Meetings**

Members should not text or email each other during an open meeting on any matter within the Board's jurisdiction.

Use of electronic devices, including laptops, during the meetings is solely limited to access the Board Meeting materials that are in electronic format or to participate in web-based teleconference meetings.

### **Making a Motion at Meetings**

When new business is to be introduced or a decision or action is to be proposed, Board members should make a motion to introduce a new piece of business or to propose a decision or action. All motions must reflect the content of the meeting's agenda – the Board cannot act on business that is not listed on the agenda.

Upon making a motion, Board members must speak slowly and clearly as the motion is being recorded. Members who opt to second a motion simply say, "I second the motion," "I second it," or "Second." Additionally, it is important to remember that once a motion has been made and seconded, it is inappropriate to make a second motion until the initial one has been resolved or withdrawn.

The basic process of a motion is as follows:

1. An agenda item has been thoroughly discussed and reviewed.
2. The Board Chair opens a forum for a member to make a motion on the discussed item.
3. A member makes a motion before the Board.
4. Another member seconds the motion.
5. The Board Chair solicits additional comment from the Board and then the public.
6. The Board Chair puts forth the motion to a vote.

7. The vote of each Board member shall be recorded via rollcall vote. Members in favor of the motion say “aye” and members opposed to the motion say “no”. Members may also vote to “abstain” meaning a non-vote. Members may also vote to “recuse” meaning that they disqualify themselves from participation in a decision on grounds such as potential conflict of interest or personal involvement. Recusal is the proper response to a conflict of interest. No vote will be recorded for a member who has been “recused” for a particular item. A member who has recused themselves from an item must leave the dais and not participate in discussion or voting on the item.
8. Upon completion of the voting, the result of the vote will be announced (e.g., “the ayes have it and the motion is adopted” or “the no’s have it and the motion fails”).



## **CHAPTER 3. TRAVEL & SALARY POLICIES & PROCEDURES**

### **Travel Approval (DCA Travel Guide)**

Board members shall have the Executive Officer's approval for travel except for regularly scheduled Board and Committee Meetings to which the Board member is assigned.

### **Travel Arrangements**

Board staff will assist Board members in making travel arrangements for each Board member as required. These arrangements will be made through the appropriate State employee systems for booking travel.

### **Out-of-State Travel (State Administrative Manual § 700 et seq.)**

For out-of-state travel, Board members will be reimbursed for actual lodging expenses, supported by vouchers, and will be reimbursed for meal and supplemental expenses. Out-of-state travel for all persons representing the state of California is controlled and must be approved by the Governor's Office and the Department of Consumer Affairs.

### **Travel Claims (State Administrative Manual § 700 et seq. and DCA Travel Guide)**

Rules governing reimbursement of travel expenses for Board members are the same as for management-level state staff. All expenses shall be claimed on the appropriate travel expense claim forms. Board members will be provided with completed travel claim forms submitted on their behalf. Board staff maintains these forms and completes them as needed. It is advisable for Board members to submit their travel expense forms immediately after returning from a trip and not later than two weeks following the trip.

In order for the expenses to be reimbursed, Board members shall follow the procedures contained in DCA Travel Guide provided as Attachment B.

### **Salary Per Diem (BPC § 103)**

Compensation in the form of salary per diem and reimbursement of travel and other related expenses for Board members is regulated by BPC § 103.

This section also provides for the payment of salary per diem for Board members "for each day actually spent in the discharge of official duties," and provides that the Board members "shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties." "Official duties" includes, but is not limited to, authorized attendance at other gatherings, events, meetings, hearings, or conferences, and committee work; review of enforcement cases to submit a ballot vote; time spent to prepare for Board or Committee Meetings; and time spent traveling to and from a Board or Committee Meeting.

## CHAPTER 4. SELECTION OF OFFICERS AND COMMITTEES

### Officers of the Board

The Board shall elect from its members a Chair and Vice Chair to hold office for one year or until their successors are duly elected and qualified.

### Roles and Responsibilities of Board Officers

#### Chair

- **Board Business:** Conducts the Board's business in a professional manner and with appropriate transparency. Adheres to the highest ethical standards and uses Roberts Rules of Order as a guide and the Bagley-Keene Open Meetings Act during all Board Meetings.
- **Board Vote:** Conducts rollcall vote or delegates it to a staff.
- **Board Affairs:** Ensures that Board matters are handled properly, including preparation of pre-meeting materials, committee functioning, and orientation of new Board members.
- **Governance:** Ensures the prevalence of Board governance policies and practices. Acts as a representative of the Board as a whole.
- **Board Meeting Agendas:** Develops agendas for meetings with the Executive Officer and Legal Counsel. Presides at Board Meetings.
- **Executive Officer:** Establishes search and selection committee who will work with DCA in hiring an Executive Officer. Convenes Board discussions for the annual performance appraisal of the Executive Officer each calendar year.
- **Board Committees:** Seeks volunteers for committees and coordinates individual Board members assignments. Makes sure each committee has a chairperson, and stays in touch with chairpersons to be sure that their work is carried out. Obtains a debrief from each Board Committee chairperson at the next Board Meeting.
- **Yearly Board Officers Elections:** Notify members of Board Officers election prior to the last Board meeting of the calendar year.
- **Community and Professional Representation:** Represents the Board in the community on behalf of the organization as does the Executive Officer.
- **Sunset:** Develops, with the Vice Chair and staff, the Board's Sunset Review Report to the California Legislature for the Board's review.

## **Vice Chair**

- **Board Business:** Performs the duties and responsibilities of the Chair when the Chair is absent.
- **Board Budget:** Serves as the Board's budget liaison with staff and may assist staff in the monitoring and reporting of the budget to the Board. Reviews budget change proposals with staff.
- **Strategic Plan:** Serves as the Board's strategic planning liaison with staff and may assist staff in the monitoring and reporting of the strategic plan to the Board.
- **Board Member On-Boarding:** Welcomes new members to the Board and is available to answer questions. May participate in on-Boarding meeting with staff and new members.
- **Sunset:** Develops, with the Chair and staff, the Board's Sunset Review Report to the California Legislature for the Board's review.

## **Election of Board Officers**

The Board elects Board Officers at the last meeting of the calendar year. Officers serve a term of one-year, beginning January 1 of the next calendar year. All officers may be elected on one motion as a slate of officers unless more than one Board member is running per office. An officer may be re-elected and serve for more than one term.

## **Board Officer Vacancies**

If an office becomes vacant during the year, an election shall be held at the next Board meeting. If the office of the Chair becomes vacant, the Vice Chair shall assume the office of the Chair until the election for Chair is held. Elected officers shall then serve the remainder of the term.

## **Committees and Creation of Committees**

The Chair shall establish committees, whether standing or special, as necessary.

The following committees have been created by the Board and consist of Board members that meet on a regular basis for the purpose of discussing specific issues in depth and provide feedback and any recommendations to the full Board:

- **Hearing Aid Dispensing Committee** – Provides policy and regulatory guidance with respect to HAD practices and recommends scope of practice amendments for consideration.

- Audiology Practice Committee – Addresses changes in practice patterns and recommends position statements and/or scope of practice amendments for consideration.
- Hearing Aid Dispensing Practice Committee – Addresses changes in practice patterns and recommends position statements and/or scope of practice amendments for consideration.
- Speech-Language Pathology Practice Committee – Addresses changes in practice patterns and recommends position statements and/or scope of practice amendments for consideration.
- Sunset Review Ad Hoc Committee – Develop for the Board's review the Board's Sunset Review Report to the California Legislature. See Attachment C for the Sunset Review Report.
- Enforcement Ad Hoc Committee – Review and recommend to the Board proposed revisions to the laws, regulations, and policies related to the Board's enforcement of the Boards Practice Act.
- Legislative Ad Hoc Committee – Review and recommend to the Board proposed positions on legislation impacting the Board, its licensees, and the Board's Practice Act.

### **Committee Appointments**

The composition of the committees and the appointment of the members shall be determined by the Board Chair in consultation with the Vice Chair and the Executive Officer. In determining the composition of each committee, the Chair shall solicit interest from the Board members during a public meeting. The Chair shall strive to give each Board member an opportunity to serve on at least one committee. Appointment of non-Board members to a committee is subject to the approval of the Board.

## **CHAPTER 5. BOARD ADMINISTRATION AND STAFF**

### **Board Administration**

Board members should be concerned primarily with formulating decisions on Board policies rather than decisions concerning the means for carrying out a specific course of action. It is inappropriate for Board members to become involved in the details of program delivery. Strategies for the day-to-day management of programs, operations and staff shall be the responsibility of the Executive Officer. Board members should not interfere with day-to-day operations, which are under the authority of the Executive Officer.

### **Board Staff**

The Board's essential functions are comprised of ensuring speech-language pathologists, audiologists, and hearing aid dispensers licensed in the State of California meet professional licensure and examination requirements and follow legal, legislative and regulatory mandates. The Board is also responsible for the enforcement of State of California requirements and regulations as they pertain to licensure and the professions.

### **Appointment of Executive Officer**

The Board shall employ an Executive Officer and other necessary staff in carrying out the provisions of the Board's Practice Act.

The Executive Officer serves at the pleasure of the Board members who provide direction to the Executive Officer in the areas of program administration, budget, strategic planning, and coordination of meetings. The Executive Officer's salary is based on pay scales set by California Department of Human Resources (Cal HR). The Executive Officer shall be entitled to traveling and other necessary expenses in the performance of their duties as approved by the Board.

### **Executive Officer Performance Appraisal**

Board members shall conduct an appraisal of the performance of the Executive Officer on an annual basis using the forms created by DCA Office of Human Resources.

### **Legal Counsel**

The Board's Legal Counsel provides "in-house" counsel. Opinions and counsel provided by the Board's Legal Counsel is protected from public disclosure by the attorney-client privilege.

## **Strategic Planning**

The Board should update the strategic plan periodically (i.e., every three to five years) with the option to use a facilitator to conduct the plan update. At the end of the calendar year, an annual review conducted by the Board will evaluate the progress toward strategic goal achievement as stated in the strategic plan and identify any areas that may require amending. See Attachment D for the Strategic Plan.

## **Legislation**

In the event that time constraints preclude Board action on legislation, the Board delegates to the Executive Officer and the Board Chair and Vice Chair the authority to take action on legislation that would affect the Board. The Board shall be notified of such action as soon as possible.

## **CHAPTER 6. OTHER POLICIES AND PROCEDURES**

### **Board Member Orientation and Training (BPC § 453, GC § 11121.9, GC § 12950.1)**

Newly appointed and re-appointed members shall complete a training and orientation program provided by DCA within one year of assuming office. This one-day class will discuss Board member obligations and responsibilities.

All Board members shall complete all required training and submit compliance documentation including, but not limited to, the documents specified below:

- Board Member Orientation Training (BMOT) provided by DCA (complete within one (1) year of assuming office).
- Ethics Training provided by the Office of the Attorney General (complete within first six (6) months of assuming office and every two (2) years thereafter).
- Conflict of Interest Filing, *Form 700 – Statement of Economic Interests*, provided by DCA (complete within thirty (30) days of assuming office, every April 1<sup>st</sup> thereafter, and within thirty (30) days of leaving the Board).
- Sexual Harassment Prevention Training provided by DCA (complete within thirty (30) days of assuming office and every two (2) years thereafter on odd numbered years).
- Defensive Driver Training provided by Department of General Services (complete once every four years).

Upon assuming office, members will receive a copy of the Bagley-Keene Open Meetings Act, which lists public meeting laws that provide the guidelines for Board Meetings (see Attachment A).

Members will also receive a Law book, which includes a copy of the Board's practice act, regulations, disciplinary guidelines, and other related statutes (see Attachment E).

Additional Board member resources can be found at [https://www.dca.ca.gov/about\\_us/board\\_members/](https://www.dca.ca.gov/about_us/board_members/).

Business cards can be provided to each Board member with the Board's name, address, telephone, and website address. A Board member's business address, telephone, and email address may be listed on the card at the member's request.

### **Board Member Disciplinary Actions**

The Board may censure a member if, after a hearing before the Board, the Board determines that the member has acted in an inappropriate manner. The Chair of the

Board shall sit as chair of the hearing unless the censure involves the Chair's own actions, in which case the Vice Chair of the Board shall sit as chair. In accordance with the Bagley-Keene Open Meetings Act, the censure hearing shall be conducted in open session.

### **Removal of Board Members (BPC §§ 106 and 106.5)**

The Governor has the power to remove from office at any time any member of any Board appointed by them for continued neglect of duties required by law or for incompetence, unprofessional, or dishonorable conduct. The Governor may also remove from office a Board member who directly or indirectly discloses examination questions from an examination for licensure to an applicant or candidate.

### **Resignation of Board Members (GC § 1750)**

In the event that it becomes necessary for a Board member to resign, a letter shall be sent to the appropriate appointing authority (Governor, Senate Rules Committee, or Speaker of the Assembly) with the effective date of the resignation. State law requires written notification. A copy of this letter shall also be sent to the director of DCA, the Board Chair, and the Executive Officer.

### **Conflict of Interest (GC § 87100)**

No Board member may make, participate in making, or in any way attempt to use their official position to influence a governmental decision in which they know or have reason to know they have a financial interest. Any Board member who has a financial interest shall disqualify themselves from making or attempting to use their official position to influence the decision. Any Board member who believes they are entering into a situation where there is a potential for a conflict of interest should immediately consult the Board's Legal Counsel.

### **Contact with Candidates, Applicants and Licensees**

Board members should not intervene on behalf of a candidate or an applicant for licensure for any reason, nor should they intervene on behalf of a licensee. All inquiries regarding licensees, applications, and enforcement matters should be referred to the Executive Officer.

### **Communication with Other Organizations and Individuals**

Any and all representations made on behalf of the Board must be made by the Executive Officer or Board Chair, unless approved otherwise. All correspondence shall be issued on the Board's standard letterhead or email and will be created and disseminated by the Executive Officer, or their designee.



## **Gifts from Candidates and Applicants**

Gifts of any kind to Board members or staff from candidates and applicants for licensure is not permitted and will be promptly returned unless they are perishable goods that cannot effectively be returned to the sender.

## **Request for Records Access**

Board member may not access the file of a licensee, candidate, or applicant without the Executive Officer's knowledge and approval of the conditions for access. Records or copies of records shall not be removed from the Board's Office.

## **Ex Parte Communications (GC § 11430.10 et seq.)**

The Government Code contains provisions prohibiting ex parte communications. An ex parte communication is a communication to the decision-maker made by one party to an enforcement action without participation by the other party. While there are specified exceptions to the general prohibition, the key provision is found in subdivision (a) of GC § 11430.10, which states:

“While the proceeding is pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and an opportunity for all parties to participate in the communication.”

Board members are prohibited from an ex parte communication with Board enforcement staff while a proceeding is pending. Occasionally, an applicant who is being formally denied licensure, or a licensee against whom disciplinary action is being taken, will attempt to directly contact Board members.

- If the communication is written, the Board member should read only far enough to determine the nature of the communication. Once they realize it is from a person against whom an action is pending, they should reseal any physical documents received and send them to the Executive Officer.
- If the communication is a telephone call, the Board member should immediately tell the person they cannot speak to them about the matter. If the person insists on discussing the case, the person should be told that the Board member will be required to recuse themselves from any participation in the matter. Therefore, continued discussion is of no benefit to the applicant or licensee.

If a Board member believes that they have received an unlawful ex parte communication, they should contact the Board's Legal Counsel for further guidance.

## **CHAPTER 7. COMPLAINT AND DISCIPLINARY PROCESS**

The Board conducts disciplinary proceedings in accordance with the Administrative Procedure Act, GC § 11370, and those sections that follow. The Board conducts investigations and hearings pursuant to Government Code §§ 11180 through 11191.

The Board also uses its Disciplinary Guidelines and the Uniform Standards Related to Substance Abusing Licensees as a guide when determining appropriate levels of discipline. The Disciplinary Guidelines were established in an effort to provide consistency in determining penalties. Enforcement staff consider the Disciplinary Guidelines when determining whether to seek revocation, suspension, and/or probation of a license. Board members use them when considering cases during hearings. The guidelines are updated when necessary and are distributed to Deputy Attorney Generals and Administrative Law Judges who work on cases with the Board. Disciplinary Guidelines can be found in the Law Book provided as Attachment E.

### **Disciplinary Options**

The Board has two options available to impose discipline against a licensee. In cases in which the violations do not warrant the revocation of a license or terms and conditions of probation, a citation and fine is issued. In cases in which the violations are egregious and warrant revocation, probation, or public reprimand of the licensee, the Board forwards the matter to the Attorney General's office to pursue formal disciplinary action. Each decision is made in consultation with the Executive Officer.

### **Citation and Fine**

A citation and fine issued to the licensee is considered an administrative action and is subject to public disclosure. The fines range from \$100 to a maximum of \$2,500 for each investigation. In specified circumstances, a fine up to a maximum of \$5,000 may be issued. All citation and fines issued include an order of abatement in which the licensee must provide information or documentation that the violation has been corrected. The licensee is afforded the opportunity to informally and formally appeal the issuance of the citation and fine as described in Title 16 California Code of Regulations Sections 1399.135-1399.139 and 1399.159-1399.159.4.

### **Formal Disciplinary Actions**

If after the completion of an investigation, evidence substantiates gross negligence, incompetence, or unprofessional conduct, the enforcement analyst, in consultation with the Enforcement Coordinator and Executive Officer, determines whether the case should be forwarded to the Attorney General's Office for disciplinary action.

### **Attorney General's Office**

The Attorney General's Office is responsible for prosecuting the administrative case against licensees and registrants (respondents). A respondent might be suspended from practice, have their license revoked, be placed on probation, or be publicly reprimanded, or an applicant may be denied licensure or licensed with probation. A Deputy Attorney General (DAG) in the Attorney General's Office Licensing Unit is assigned to these cases. The DAG works with the Board's enforcement staff to determine whether the necessary evidence exists for a successful prosecution. The burden of proof in these matters must be clear and convincing. Based on the evidence, the DAG makes recommendations regarding prosecution. Although the Board generally takes the advice of counsel, the Board has the discretion to take other action.

### **Filing Formal Charges**

Formal charges are almost always filed in cases in which the health and safety of the consumer has been compromised, and in which supporting evidence can be established. The Board's Executive Officer determines whether to file formal charges for any violation of the Board's licensing laws. These formal charges are referred to as pleadings. In each pleading, the Executive Officer of the Board is the complainant.

Pleadings are:

- **Accusations:** A written statement of charges against the holder of a license or registration, to revoke, suspend or limit the license, specifying the statutes and rules allegedly violated, and the acts or omissions comprising the alleged violations.
- **Statement of Issues:** A written statement of the reasons for denial of an application for a license or registration, specifying the statutes and rules allegedly violated, and the acts or omissions comprising the alleged violations.
- **Petition for reinstatement or reduction of penalty:** A person whose license or registration was revoked, suspended or placed on probation can petition for that license or registration to be reinstated, to have the penalty reduced, or for the probation to be terminated.

Many boards have specific regulations relating to petitions. Hearings on petitions usually take place before the Board itself at a scheduled board meeting, with an Administrative Law Judge (ALJ) presiding. The Board usually goes into closed session after the hearing to deliberate and decide the outcome. The ALJ usually prepares the Decision, for signature of the Board Chair. Some boards prefer to have the ALJ, sitting alone, hear petitions and render a proposed decision to the board. This may also happen when the Board does not have a quorum at a board meeting.

### **Actions Preceding an Administrative Hearing**

Once an Accusation or Statement of Issues has been filed and the respondent has been served, several outcomes may occur:

- The respondent may wish to settle the matter prior to a formal hearing.
- The respondent may file a notice of defense and request an administrative hearing. All hearings are held before an ALJ from the Office of Administrative Hearings.
- The respondent may fail to respond to the accusation/statement of issues and not file a notice of defense.

At any stage of this process, the Board may withdraw the Accusation or Statement of Issues for any reason or enter into a stipulated settlement with the respondent.

If the respondent fails to respond within fifteen (15) days of receiving the Accusation or Statement of Issues, a Default Decision is issued. Default Decisions result in the revocation or denial of a license.

### **Stipulation or Negotiated Settlements**

The licensee or applicant and Board may decide to settle at any time during the administrative process. Usually, stipulations or negotiated settlements, are entered into before an administrative hearing is held to avoid the expense of the hearing while achieving discipline in alignment with the Disciplinary Guidelines. Stipulations prior to an administrative hearing eliminate the six months to one-year delay that may result from attempting to schedule a mutually agreeable hearing date. In some circumstances, the public is better served because the resolution time is reduced, the Board and respondent save time and money, and consumer protection is still maintained.

In negotiating a stipulation, the DAG works closely with the Board's Executive Officer and Enforcement Coordinator to arrive at a stipulation or negotiated settlement that will be acceptable to the Board. Stipulation terms are given to the DAG representing the Board by the enforcement staff with approval of the Executive Officer, utilizing the Board's Disciplinary Guidelines. Stipulations are negotiated and drafted by the DAG, the respondent, and the respondent's legal counsel. Pre-hearing conferences are a more formal method for developing a negotiated settlement. These hearings involve the Executive Officer and/or the Enforcement Coordinator, the respondent, respondent's attorney, and an ALJ.

The settlement is reduced to a written stipulation and order which sets forth the settlement terms and proposed disciplinary order. The written stipulation and order is forwarded to the Board for its consideration.

During the settlement process, the DAG has been advised by the Executive Officer or through the Enforcement Coordinator regarding acceptable terms. The DAG may

advocate before the Board for approval of the settlement. The Board may accept the settlement and issue its decision and order based on the settlement. If the Board rejects the settlement, a new settlement may be submitted to the Board at a later time, or the case may proceed to an administrative hearing before an ALJ.

## **Office of Administrative Hearings**

The Office of Administrative Hearings (OAH) consists of two divisions located in six regional offices at major population centers throughout the State. The General Jurisdiction Division conducts hearings, mediations, and settlement conferences for more than 1,000 state, local, and county agencies. This is the division that conducts the hearings for the Board. The Special Education Division conducts hearings and mediations for school districts and parents of children with special education needs throughout the State.

In an administrative hearing, the ALJ presides over the hearing; an attorney (DAG) represents the Board and presents the case; and the respondent or the respondent's representative or attorney presents its case. Testimony and evidence are presented and there is a transcript of the proceedings available after the hearing. Upon the conclusion of the administrative hearing, the ALJ will consider all of the testimony and evidence and will prepare a Proposed Decision. Once the hearing is finished, the ALJ has thirty (30) days to prepare the proposed decision and send it to the Board. The Proposed Decision is submitted to the Board for consideration. Upon receipt of the Proposed Decision, the Board then has one hundred (100) days to take action to either adopt or reject it. If no action is taken within one hundred (100) days, the proposed decision becomes effective by operation of law.

If the respondent fails to appear at an administrative hearing, a Default Decision is issued. Defaults result in the revocation or denial of a license.

## **Board Review of Stipulations and Proposed Decisions**

The Board members review and vote on each case where the matter is either settled prior to hearing or the ALJ issues a proposed decision. In all cases, the Board members have the option to adopt/accept, adopt/accept with edits (technical/minor), reject, or hold for discussion.

## **Ballot Procedure**

Proposed Stipulations and Proposed Decisions are usually presented to the Board for its consideration by ballot. Ballot is done by electronic mail. Ballot packet materials are confidential and include the following:

- Memo from enforcement staff listing the cases for review and decision
- Ballot

- Legal documents (Proposed Decision, Proposed Stipulation or Default Decision, and Accusation or Statement of Issues)
- Memo from the assigned Deputy Attorney General (Proposed Stipulated Settlement cases only)

Deliberation and decision-making should be done independently and confidentially by each Board member. Voting members may not communicate with each other, and may not contact the DAG, the respondent, anyone representing the respondent, any witnesses, the “complainant”, the ALJ, or anyone else associated with the case.

Additionally, Board members should not discuss pending cases with staff, except as to technical questions of procedure or to ask whether additional information is available, and whether the Board may properly consider such information. If a Board member has any procedural questions not specific to evidence, or any question specifically related to the cases, the questions should be directed to the Board’s Legal Counsel.

Completed ballots are due at the Board office no later than the due date indicated in the ballot package. The due dates are established in accordance with the timelines indicated in Administrative Procedure Act. Therefore, it is critical that Board members return their votes by the due date. It may be your vote that is the deciding vote in the outcome of a case.

Ballot materials should be retained until notification by enforcement staff that the outcome of cases has been decided. Once a decision is final, the ballot packet materials must be confidentially destroyed.

### **Ballot Vote Definitions**

- Adopt/Accept: A vote to adopt/accept means that you agree with the action as written.
- Adopt/Accept with Edits: A vote to adopt/accept with edits means that you agree with the action but it needs technical or minor changes that do not affect the factual or legal base of the stipulation.
- Reject: A vote to reject means that you disagree with one or more portions of the proposed action and do not want it adopted as the Board’s decision.
- Hold for Discussion: A vote to hold for discussion means that you wish to have some part of the action changed in some way (e.g., increase penalty, reduce penalty, etc.) or you may believe an additional or a different term or condition of probation should be added, or that a period of suspension should be longer.

### **Ballot Outcome for Stipulations or Negotiated Settlements**

- Adopt/Accept – If the decision of the Board is to adopt the terms proposed in the stipulation, the stipulation becomes effective within thirty (30) days and the respondent is notified.
- Adopt/Accept with Edits – If the decision of the Board is to adopt the terms proposed in the stipulation with technical or minor changes, the changes are made, the stipulation becomes effective within thirty (30) days, and the respondent is notified.
- Reject– If the Board decides to reject the stipulation, the respondent is notified, and the matter resumes the process for a formal administrative hearing before an ALJ or a new settlement may be submitted to the Board at a later date. *Note: a majority vote to adopt will prevail over a minority vote to reject.*
- Hold for Discussion – If one (1) Board member votes to hold the case for discussion, the case is discussed at the next available meeting during a closed session. *Note: A Board member may seek procedural clarification from the Board’s Legal Counsel without holding the case for discussion.*

### **Ballot Outcome for Proposed Decisions**

- Adopt/Accept – If the decision of the Board is to adopt the proposed decision, the decision becomes effective within thirty (30) days and the respondent is notified.
- Adopt/Accept with Edits – If the decision of the Board is to adopt the proposed decision with technical or minor changes, the changes are made, the decision becomes effective within thirty (30) days, and the respondent is notified.
- Reject – If the Board decides to reject the proposed decision, the respondent is notified. Transcripts from the administrative hearing are requested. Board members review the transcripts and evidence and meet during a closed session to write their own decision. *Note: a majority vote to adopt will prevail over a minority vote to reject.*
- Hold for Discussion – If one (1) Board member votes to hold the case for discussion, the case is discussed at the next available meeting during a closed session. *Note: A Board member may seek procedural clarification from the Board’s Legal Counsel without holding the case for discussion.*

### **Disqualification**

With some limited exception, a Board member cannot decide a case if that Board member investigated, prosecuted or advocated in the case, or is subject to the authority of someone who investigated, prosecuted, or advocated in the case. A Board member

may also be disqualified for bias, prejudice, financial conflict of interest or other conflicts of interest related to the case.



# **Hand Carry Item**

Agenda Item 11:

Discussion and Possible Action  
Regarding Potential Options for Obtaining  
Authority for and Implementing a Retired  
License Status for Board Licensees

## MEMORANDUM

DATE	April 16, 2025
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Maria Liranzo, Legislation/Regulation/Budget Analyst
SUBJECT	Agenda Item 12: Regulatory Report: Update, Review, and Possible Action on Board Regulation Packages

The following is a list of the Board's regulatory packages, and their status in the rulemaking process:

**a) Continuing Professional Development Requirements for Speech-Language Pathologists and Audiologists as stated in Title 16, CCR sections 1399.160 through 1399.160.4**

Regulation Development	Preparing Regulatory Package	Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision
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This regulatory proposal was approved and filed with the Secretary of State by OAL on September 6, 2024, and became effective on January 1, 2025. For more information, visit [https://www.speechandhearing.ca.gov/board\\_activity/lawsregs/cpd\\_requirements.shtml](https://www.speechandhearing.ca.gov/board_activity/lawsregs/cpd_requirements.shtml)

This regulatory change clarifies definitions to reflect advancements made to speech-language pathology and audiology (SLP-AU) continuing professional development (CPD) courses delivered online, increases the number of self-study hours to half of the total required hours, removes limitations to the number of hours that can be obtained from courses that are related to the practice of SLP-AU, increases the number of hours that can be obtained from indirect patient/client care courses to twenty-five (25) percent, permits other opportunities to fulfill CPD requirements, and clarifies current regulations by making CPD requirements consistent with the Board's CPD audit process and the professional learning requirements for similar license types and course content.

**b) Advertising for Hearing Aid Dispensing as stated in Title 16, CCR section 1399.127**

Regulation Development	Preparing Regulatory Package	Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision
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This regulatory proposal was approved and filed with the Secretary of State by OAL on December 30, 2024, and became effective on April 1, 2025. For more information, visit [https://www.speechandhearing.ca.gov/board\\_activity/lawsregs/hadadvertising.shtml](https://www.speechandhearing.ca.gov/board_activity/lawsregs/hadadvertising.shtml)

This regulatory change clarifies that anyone licensed to dispense hearing aids can advertise the fitting and selling of hearing aids in accordance with Business and Professions Code section 651

and CCR section 1399.127, information required in advertisements, prohibited advertisements, and national advertisements disseminated in California.

**c) Processing Times as Stated in Title 16, CCR Sections 1399.113, 1399.141, 1399.151.1, 1399.153.2, 1399.160.6, 1399.170.4, and 1399.170.13**

Regulation Development	Preparing Regulatory Package	Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision
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This regulatory proposal is in the Finalizing Regulatory Package phase and requires review and approval by the Board. See the separate memo for this regulatory proposal.

This proposed regulatory change will remove processing times and references to processing times in multiple regulation sections.

**d) Audiology Licensing Requirements Related to Supervised Clinical Experience as stated in Title 16, CCR section 1399.152.2**

Regulation Development	Preparing Regulatory Package	Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision
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The Board approved revisions to the proposed regulatory text on December 6, 2024. The required regulatory documents completed the Departmental Review process on April 22, 2025, and was noticed on May 2, 2025, for public comment. The 45-day public comment period will end on Tuesday, June 17, 2025.

This proposed regulatory change will codify the number of clock hours of supervised clinical practice required for audiology licensure applicants who have completed an audiology doctoral program.

**e) Hearing Aid Dispensers Trainee and Temporary Licensee Supervision as stated in Title 16, CCR sections 1399.102 and 1399.115 through 1399.119**

Regulation Development	Preparing Regulatory Package	Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision
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The Board approved revisions to the proposed regulatory text on August 25, 2023. As of May 1, 2024, Board staff is preparing the regulatory package for Departmental Review. The proposed rulemaking is on hold for the preparation and submission of other pressing regulations.

This proposed regulatory change will clarify that supervision is required for the entire duration of the trainee or temporary license, specify different levels of supervision, require a higher level of supervision during the first ninety (90) days of supervision, specify tasks and knowledge supervisors must provide to trainees, require supervisors to complete a training in supervision, specify criteria to request a waiver to supervise more than one trainee or temporary license holder, make requirements applicable to all temporary license types who require supervision, and make requirements applicable to all license types who can supervise.

**f) General Application Requirements and Hearing Aid Dispensers and Dispensing Audiologists Examination Requirements as Stated in Title 16, California Code of Regulations (CCR) Sections 1399.112, 1399.120, 1399.121, 1399.122, and 1399.152.4**

Regulation Development	Preparing Regulatory Package	Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision
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The Board approved revisions to the proposed regulatory text on December 1, 2023. As of April 19, 2024, Board staff is preparing the regulatory package for Departmental Review. The proposed rulemaking is on hold for the preparation and submission of other pressing regulations.

This proposed regulatory change will codify general application requirements such as the expedited licensure process, make current the written and practical examinations process, codify the written and practical examination application forms and their examination fees, change the practical examination appeal deadline, specify a deadline for the Board to notify an applicant of its decision on their practical examination appeal, and change the hearing aid dispenser examination requirement for applicants of a dispensing audiology license.

**g) Approved Institutions as stated in Title 16, CCR section 1399.152**

Regulation Development	Preparing Regulatory Package	Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision
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The Board approved revisions to the proposed regulatory text on August 25, 2023. As of August 13, 2024, Board staff is preparing the regulatory package for Departmental Review. The proposed rulemaking is on hold for further analysis.

This proposed regulatory change will permit the Board to review and approve accrediting bodies that wish to provide accreditation to programs where individuals can complete their academic and clinical requirements for licensure in the practices of speech-language pathology or audiology.

**h) Fingerprinting Requirements as stated in Title 16, CCR sections 1399.112, 1399.151.2, and 1399.170.14**

Regulation Development	Preparing Regulatory Package	Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision
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The Board approved revisions to the proposed regulatory text on May 13, 2022. As of September 9, 2022, Board staff is preparing the regulatory package for Departmental Review. The proposed rulemaking is on hold due to fiscal impact.

This proposed regulatory change will require licensees who were initially licensed prior to January 1, 1999, or for whom an electronic fingerprints record does not exist, to be fingerprinted as a condition of renewal.

Attachment: Stages of the Regulatory Process

## Stages of the Regulatory Process

The Department of Consumer Affairs (DCA) has a four-phase process to approve regulatory packages: (1) Concept; (2) Production; (3) Initial and (4) Final.

### (1) CONCEPT PHASE

Regulation Development	Preparing Regulatory Package	Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision
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**Regulation Development:** The first stage of the regulatory process is to develop the regulatory proposal. This is known as the concept phase. Regulations may be required to implement a new law or regulatory changes may be necessary to address an issue raised by Board members, Board staff, the Legislature, licensees, or other stakeholders. In this phase, the Board and/or Board Committee(s) may work on drafting regulatory language, Board staff will work with DCA Legal staff to address any concerns with the draft regulatory text, and the Board will ultimately adopt the regulatory language.

### (2) PRODUCTION PHASE

Regulation Development	Preparing Regulatory Package	Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision
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**Preparing Regulatory Package:** In this stage, Board staff are working on preparing the required regulatory documents including the Notice of Proposed Regulatory Action, Initial Statement of Reasons, and the Economic and Fiscal Impact Statement. Board staff review Board meeting materials, webcasts, and meeting minutes to assist in the development of these documents which must justify why the regulatory changes are necessary. Board staff may also work closely with DCA's Budget Office to develop the Economic and Fiscal Impact Statement.

In this stage, Board staff work collaboratively with DCA Regulations Counsel. DCA Regulations Counsel propose recommended changes to the regulatory documents (Note: Since the regulatory text is already approved at this time, ideally, there should be no changes to the text. Regulatory Counsel would have already reviewed and sought second-level review of the text to ensure the language is clear, concise, non-repetitive, etc.). Board staff then incorporate recommended changes prior to submitting the regulatory package back to the Board's Regulations Counsel. Board staff may also meet with Regulations Counsel and/or Budget Staff to provide additional information about the Board's licensing or enforcement processes in relation to the proposed regulation. At this stage, Legal and Budget approval of the package is obtained. (i.e., Regulatory Counsel approves the package and Budgets signs off of Form 399.)

Regulation Development	Preparing Regulatory Package	Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision
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**Departmental Review:** Upon approval by the Board's Regulations Counsel and DCA Budget staff, the entire regulatory package is submitted to the Regulations Coordinator, who then prepares the package for the DCA Director and the Business, Consumer Services and Housing Agency's review and approval. Throughout this stage, additional changes to the regulatory language and/or regulatory documents may be requested by DCA or the Business, Consumer Services and Housing Agency.

### (3) INITIAL PHASE

Regulation Development	Preparing Regulatory Package	Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision
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**OAL Public Comment Period:** Upon approval by the Business, Consumer Services and Housing Agency, the regulatory proposal will be submitted to the Office of Administrative Law (OAL) to be published in the California Regulatory Notice Register. This commences the initial phase of the process. OAL publishes the Notice Register every Friday and the publication date starts the formal 45-day public comment period as well as the one-year deadline to submit the completed rulemaking file to OAL. If the Board makes changes to the regulatory language in response to public comments, the regulatory proposal must be made available to the public for an additional 15-day.

#### **(4) FINAL PHASE**

Regulation Development	Preparing Regulatory Package	Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision
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**Finalizing Regulatory Package:** The Board must respond in writing to every comment received during the public comment period. In this stage, Board staff work with the Board's Regulations Counsel to develop proposed responses to the public comments, which must be approved by the Board. Board staff then prepare the Final Statement of Reasons which must outline any changes made to the regulatory language and updates to any information contained in the Initial Statement of Reasons such as changes to the fiscal and/or economic impact or additional materials to include in the record. The Final Statement of Reasons will also include the Board's approved responses to the public comments.

Regulation Development	Preparing Regulatory Package	Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision
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**DCA Regulations Final Review:** Upon completion of the Final Statement of Reasons, Board staff submits the entire regulatory proposal to the Board's Regulations Counsel for final review. In this stage, Board staff work collaboratively with the Board's Regulations Counsel. The Regulations Counsel may propose recommended changes to the Final Statement of Reasons or request additional underlying documents. Board staff will work with the Board's Regulations Counsel to address any concerns prior to the final submission to DCA.

Regulation Development	Preparing Regulatory Package	Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision
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**Final Departmental Review:** Upon approval by the Board's Regulations Counsel, Board staff submits the entire regulatory package for the Final Departmental Review which involves reviews by the DCA Director, DCA Budget Office, and the Business, Consumer Services and Housing Agency (Note: Agency review may not be required if there are no comments or the comments do not result in modifications to the text). Throughout this stage, additional documents may be requested or changes to the regulatory documents may be requested by DCA or the Business, Consumer Services and Housing Agency.

Regulation Development	Preparing Regulatory Package	Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision
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**Submission to OAL for Review:** Upon approval by the Business, Consumer Services and Housing Agency, the completed rulemaking file is submitted to OAL. OAL has 30 working days to approve or deny the regulatory proposal. During this stage, Board staff will work with the OAL Attorney to address any concerns with the regulatory documents or make non-substantive changes to the regulatory language. Board and DCA staff may also work with the Department of Finance to obtain approval of the Economic and Fiscal Impact Statement.

Regulation Development	Preparing Regulatory Package	Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision
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**OAL Decision:** Unless the Board requested an early effective date, upon approval by OAL, regulations become effective on one of four quarterly dates based on when OAL files the final regulations with the Secretary of State (SOS). Following approval by OAL, Board staff will work internally to implement the new regulations.

<b>OAL Decision Date and Filing with SOS</b>	<b>Effective Date</b>
September 1 to November 30	January 1 <sup>st</sup>
December 1 to February 29	April 1 <sup>st</sup>
March 1 to May 31	July 1 <sup>st</sup>
June 1 to August 31	October 1 <sup>st</sup>



# MEMORANDUM

DATE	April 30, 2025
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Maria Liranzo, Legislation/Regulation/Budget Analyst
SUBJECT	Agenda Item #12(c): Discussion and Possible Action to Amend Regulations Regarding Repealing Processing Times as Stated in Title 16, CCR Sections 1399.113, 1399.141, 1399.151.1, 1399.153.2, 1399.160.6, 1399.170.4, and 1399.170.13

## **Background**

The proposed regulatory changes will remove processing times and any references to processing times in multiple regulation sections.

Board staff noticed the proposed rulemaking with a 45-day comment period from March 14, 2025, through April 29, 2025. The Board received one (1) comment with objection or recommendation during the comment period. There were no requests for a public hearing and no separate public hearing was held.

The Administrative Procedure Act (APA) does not require the Board to review or respond to written comments in support of this regulatory action during the final rulemaking process. However, the Board is required to review and respond to written comments that object or make a recommendation regarding the regulatory action or the procedures followed by the Board in proposing the regulatory action received during the comment period.

## **Summary of Comment and Proposed Board Response**

### **Comment Summary:**

The comment recommended that the Board adjust the times to a reasonable expectation for the Board instead of removing it. The comment stated that the Board has struggled to keep up with processing applications for hearing aid dispensing trainee licenses, practical exams, and continuing education courses in the past and it is reducing accountability by removing the reasonable response timelines for applicants. The comment also stated that applicants may expect faster response times or may suffer further delays in the absence of these regulations. The comment also stated that there has been improvement in processing timelines over the last six (6) to eight (8) months, but from 2023 to early 2024 there were major delays. The comment expressed concern that another situation may arise with similar delays. Applicants will have no frame of reference for timely response and there will be nothing that the Board can use as a guideline.

### **Proposed Board Response:**

The Board has reviewed and considered the comment and declines to amend the proposed text.

As described on pages 3 and 4 of the Initial Statement of Reasons, “processing times are dynamic and vary for reasons beyond the Board’s control, including applicants under an expediated process, seasonal increases and decreases in application submissions, and the submission of incomplete applications. Given the length of the rulemaking process, regulations naturally cannot be revised with the regularity needed to reflect accurate and up-to-date processing times. As such, the Board finds it is not necessary to state new or updated processing times in its regulations. Instead, the Board displays processing times on its website, which is easily accessible and provides realistic expectations about how long the license and registration application review process can take at a given time. Although the Board is no longer statutorily required to specify its processing times in regulation, the Board provides timeframes for processing license and registration applications on its internet website in accordance with BPC section 139.5. The processing times on the Board’s website are more accurate and more current than what appears in regulation because the information is based on actual workloads and is updated regularly. The Board’s internal policy is to update processing timeframes on a weekly basis, subject to workloads, which far exceeds the quarterly updates required by BPC section 139.5.”

The Board also works hard to meet the 30-day goal set by the Department of Consumer Affairs (DCA) for processing applications. The Board has been successfully under that benchmark since February 2024.

In 2023 and early 2024, there were major delays to processing applications because the Board was in the process of modernizing its application process and moving to an online platform for payment and application submission. The Board now processes all applications online which requires that each application has all necessary supporting documents (excluding college transcripts) before it can be submitted to the Board for staff review and approval. Since the modernization of the application process, the Board has seen a significant reduction in processing times and an increase in the number of applications it can process on an annual basis. The Board does not anticipate other delays to the application process aside from the applicants not under the expediated process, seasonal increases in application submissions, and the submission of incomplete applications where the applicant has failed to provide the correct supporting documentation, such as college transcripts.

### **Action Requested**

Staff recommends the Board review and discuss the provided materials. The Board may wish to determine whether to approve the Board’s responses to comments as currently drafted or propose changes to the Board’s responses, and direct Board Staff to prepare the necessary documents to complete the rulemaking process.

### **Suggested Motion Language**

Move to accept the proposed Board response(s) to comment(s) on proposed regulatory text 16 CCR sections 1399.113, 1399.141, 1399.151.1, 1399.153.2, 1399.160.6, 1399.170.4, and 1399.170.13 and direct Board staff to provide the response(s) to comment(s) as indicated in the Board memo on pages 1 and 2. Direct Board staff to take all steps necessary to complete the rulemaking process, including the filing of the final rulemaking package with the Office of Administrative Law, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed regulations at 16 CCR sections 1399.113, 1399.141, 1399.151.1, 1399.153.2, 1399.160.6, 1399.170.4. and 1399.170.13 as noticed.

Attachment A: Public Comment  
Attachment B: Processing Times Order of Adoption



## Processing Times Public Comments

**From:** Jennifer Gililland  
**To:** SpeechandHearingRegulations@DCA  
**Subject:** RE: Public Notice of Proposed Regulatory Action (Processing Times)  
**Date:** Friday, March 14, 2025 11:47:10 AM  
**Attachments:** image001.jpg

The board has struggled to keep up with processing HAD Trainee license applications, practical exam applications, and CEU course applications in the past. These changes proposed here remove the reasonable response timelines for applicants, reducing the accountability to the state licensing board. In the absence of these regulations, applicants may expect faster response times or may suffer further delays.

There has been improvement in processing timelines over the last 6-8 months, but 2023-early 2024 had major delays. There is concern that another situation may arise when similar delays occur and applicants have no frame of reference for timely response and there will be nothing that the board can use as a guideline.

It is suggested that rather than removing the language with response times, the response times be adjusted to a reasonable expectation for the state board.

### **Jennifer Gililland**

Director of Sales

5555 Garden Grove Blvd. Suite 200

Westminster, CA 92683

Office (\_\_\_\_) \_\_\_\_-\_\_\_\_ | Ext \_\_\_\_\_

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DEPARTMENT OF CONSUMER AFFAIRS  
**TITLE 16. SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY  
AND HEARING AID DISPENSERS BOARD**

**ORDER OF ADOPTION**  
**Processing Times**

**Repeal Section 1399.113 of Article 2 of Division 13.3 of Title 16 of the California Code of Regulations (CCR) as follows:**

**~~§ 1399.113. Review of Hearing Aid Dispenser Applications; Processing Time.~~**

~~(a) The Board shall inform in writing an applicant for licensure as a hearing aid dispenser within 17 days of receipt of the initial application form whether the application is complete and accepted for filing or is deficient and what specific information is required.~~

~~(b) The Board shall inform an applicant for licensure as a hearing aid dispenser within 189 days after completion of the application of its decision whether the applicant meets the requirements for licensure. "Completion of the application" means that a completed application form together with all required information, documentation and fees have been filed by the applicant. This period may be extended by that time necessary for retaking or rescheduling an examination.~~

~~NOTE: Authority cited: Section 2531.06, Business and Professions Code. Reference: Section 2538.24, Business and Professions Code.~~

**Amend Section 1399.141 of Article 7 of Division 13.3 of the CCR as follows:**

**§ 1399.141. Approval of Continuing Education Providers.**

(a) In order to be approved by the Board as a continuing education provider the following information shall be submitted with an application, Continuing Education Course Approval Application for Hearing Aid Dispensers, form CEP 100 (Rev 05/16), incorporated herein by reference, provided by the Board:

(1) Remit the \$50 per subject continuing education course approval fee.

(2) The course content for all courses, including ethics, shall be current practices as related to the fitting of hearing aids for aiding or compensating for impaired human hearing or any of the subjects listed in subsection (a)(1) of section 1399.140, within the scope of practice for a dispenser as defined by Section 2538.11 of the Code and generally for the benefit of the consumer. The course content shall be information related to the fitting of hearing aids, and this information shall be at a level above that basic knowledge required for licensure as set forth in Section 2538.25 of the Code, except that basic knowledge which

would serve as a brief introduction to the course. The phrase “at a level above that basic knowledge” means any subjects, issues, topics, theories, or findings that are more advanced than the entry level of knowledge of the practice of fitting or selling hearing aids as provided in Section 2538.11 of the Code.

(3) Teaching methods for each course or program shall be described, e.g., lecture, seminar, audiovisual, simulation, etc.

(4) Each course or program shall clearly state the educational objective that can be realistically accomplished within the framework of the course or program, and the number of hours of continuing education credit which may be obtained by completion of a specified course.

(5) Instructors shall be qualified to teach the specified course content by virtue of their prior education, training, and experience. A provider shall ensure that an instructor teaching a course has at least two of the following minimum qualifications:

(A) A license, or, if in a setting or state which does not require licensure, legal authorization to provide services in an area related to the subject matter of the course. The license shall be current, valid, and free from restrictions due to disciplinary action by the Board or any other health care regulatory agency;

(B) Training or experience in teaching courses in the subject matter; or

(C) At least two ~~years~~ (2) years of experience in an area related to the subject matter of the course. A resume of each instructor shall be forwarded with the application for approval.

(6) Each course or program shall include an evaluation method which documents that educational objectives have been met, such as, but not limited to, a written evaluation or written examination by each participant.

(7) Only those courses or programs which are open to all licensed hearing aid dispensers shall be approved by the Board.

(b) Providers shall maintain a record of attendance of each participant who is licensed as a hearing aid dispenser for a period of four (4) years, and shall provide such record to the Board upon request. The record shall indicate those dispensers who have complied with the requirements of the course or program offered.

(c) Applications for approval of a continuing education provider shall be submitted to the Board at its Sacramento office ~~allowing for sufficient time for review and prior approval as follows: The Board will inform the provider within 30 days of receipt of the application whether the application is complete or deficient. The provider shall cure any deficiency~~

~~within 30 days of such notice. The Board will approve or deny the application within 30 days of the date that the application is complete, or the last date to cure the deficiency. A provider may appeal to the Executive Officer of the Board the denial of approval of any course. Such appeal shall be filed with the Executive Officer of the Board not more than thirty (30)30 days after the date of notice of such denial. The Executive Officer shall notify the provider of the final decision within ten (10) days of the appeal.~~

(d) Any change in the course content or instructor shall be reported to the Board on a timely basis.

(e) The Board may withdraw the approval of any provider for failure to comply with the provisions of this section.

(f) Each provider shall submit to the Board on an annual basis a description or outline of each approved course to be offered the following year and a resume of any new instructor who will be presenting the course. This information shall be submitted prior to the re-offering of the course~~within the timeframe set forth in subsection (c).~~

NOTE: Authority cited: Section 2538.18, Business and Professions Code. Reference: Sections 2538.18 and 2538.57, Business and Professions Code.

**Repeal Section 1399.151.1 of Article 2 of Division 13.4 of the CCR as follows:**

**~~§ 1399.151.1. Review of Applications; Processing Time.~~**

~~(a) Speech-Language Pathology Licenses.~~

~~(1) The Board shall inform in writing an applicant for licensure as a speech-language pathologist within 37 days whether the application is complete and accepted for filing or is deficient and what specific information is required.~~

~~(2) The Board shall inform in writing an applicant for licensure as a speech-language pathologist within 37 days after completion of the application, of its decision whether the applicant meets the requirements for licensure. "Completion of the application" means that a completed application form together with all required information, documentation and fees have been filed by the applicant. This period may be extended if the applicant is delayed in obtaining or completing any required professional experience.~~

~~(b) Audiology Licenses.~~

~~(1) The Board shall inform in writing an applicant for licensure as an audiologist within 46 days whether the application is complete and accepted for filing or is deficient and what specific information is required.~~

~~(2) The Board shall inform in writing an applicant for licensure as an audiologist within 20 days after completion of the application of its decision whether the applicant meets~~

~~the requirements for licensure. "Completion of the application" means that a completed application form together with all required information, documentation and fees have been filed by the applicant. This period may be extended if the applicant is delayed in obtaining or completing any required professional experience.~~

~~(c) Aide Registrations.~~

~~(1) The Board shall inform in writing an applicant for registration as an aide within 30 days whether the application is complete and accepted for filing or is deficient and what specific information is required.~~

~~(2) The Board shall inform in writing an applicant for registration as an aide within 20 days after completion of the application, of its decision whether the applicant meets the requirements for registration. "Completion of the application" means that a completed application form together with all required information, documentation and fees have been filed by the applicant.~~

~~(d) Continuing Professional Development Provider Approvals.~~

~~(1) The Board shall inform in writing an applicant for approval as a continuing professional development provider within 30 days whether the application is complete and accepted for filing or is deficient and what specific information is required to correct the deficiency.~~

~~(2) The Board shall inform in writing an applicant for approval as a continuing professional development provider within 30 days after completion of the application, of its decision whether the applicant meets the requirements for approval. "Completion of the application" means that a completed application form together with all required information, documentation and fees have been filed by the applicant.~~

~~(e) Continuing Professional Development Course Submissions.~~

~~(1) The Board shall inform in writing a licensee and/or a continuing professional development provider within 30 days as to whether a voluntary petition for course approval documentation is complete and accepted for filing or is deficient and what specific information is required to correct the deficiency. The term "complete" means that all required information and documentation has been filed by the licensee and/or continuing professional development provider.~~

~~(2) The Board shall inform in writing a licensee and/or continuing professional development provider within 45 days after completion of the documentation submitted for a voluntary petition for course approval, of its decision whether the course meets the course content requirements as defined in Section 1399.160.4.~~

~~(f) Speech-Language Pathology Assistant.~~

~~(1) The Board shall inform an applicant for registration as a speech-language pathology assistant within 30 days whether the application is complete and accepted for filing or is deficient and what specific information is required.~~

~~(2) The Board shall inform an applicant for approval as a speech-language pathology assistant within 85 days after completion of the application, of its decision whether the applicant meets the requirements for registration. "Completion of the application" means that a completed application form together with all required information, documentation and fees have been filed by the applicant.~~

~~NOTE: Authority cited: Sections 2531.95, 2532.6(a) and 2538.1(a), Business and Professions Code. Reference: Sections 2530.6, 2531.4, 2532.6(e), 2532.6(e)(2) and 2534.2(f), Business and Professions Code.~~

**Amend Section 1399.153.2 of Article 4 of Division 13.4 of the CCR as follows:**

**§ 1399.153.2. Application and Fees.**

~~(a) All persons desiring to begin their required professional experience shall file an RPE temporary license application with the Board as provided in Section 1399.151. No person shall commence any RPE in a setting in which licensure is required in the Act until ~~he or she has~~they have been issued a required professional experience temporary license. Upon receipt of the RPE temporary license application, the Board will immediately review the RPE plan and notify the applicant of its approval or disapproval. As soon as possible thereafter the Board will review the applicant's credentials and notify the applicant as to the approval of his or her credentials for licensure.~~

~~(b) All RPE temporary license applicants shall submit at the time of filing the RPE temporary license application a non-refundable fee of \$35.00 which is applicable to the application fee as required in Section 1399.157(a).~~

~~(c) Any experience gained prior to the issuance of the RPE temporary license will not be counted toward licensure, unless the RPE temporary license holder is practicing in a setting exempt under Section 2530.5 of the Code, or in another state.~~

~~(d) Application under this section shall constitute temporary licensure of the RPE applicant under Section 2530.5 of the Code.~~

~~NOTE: Authority cited: Section 2531.95, Business and Professions Code. Reference: Sections 2530.5, 2532.1 and 2532.2, Business and Professions Code.~~

**Amend Section 1399.160.6 of Article 11 of Division 13.4 of Title 16 of the CCR as follows:**

**§ 1399.160.6. Continuing Professional Development Course Approval.**

(a) A licensee shall only be credited with continuing professional development hours if the licensee takes a course from a board-approved provider with a valid, current approval as a provider or from an entity listed in Section 2532.6(e)(1) of the Code.

(b) Courses related to the dispensing of hearing aids as offered by hearing aid manufacturers or companies for the purposes of continuing professional development shall be reviewed by the Board prior to the offering of the course. The continuing professional development provider must submit such request for course approval to the Board ~~according to the timeline in Section 1399.151.1(e)~~. Such request shall include:

(1) The nature of the sponsoring institution, the Board issued professional development provider number (with the exception of those entities listed in Section 2532.6(e)(1)), the address, telephone number, and contact person.

(2) Course title, date(s), location(s), and number of continuing professional development hours offered.

(3) Type and method of educational instruction and learner outcomes to be met.

(4) A course outline, course description, and instructor information and qualifications.

(5) If available, advertisements intended to be used by the provider to advertise the relevant course.

(c) A licensee or a continuing professional development provider may voluntarily petition Board consideration of any courses offered by an approved provider or an entity listed in Section 2532.6(e)(1) of the Code. The licensee or continuing professional development provider must submit such request for course approval to the Board ~~according to the timeline in Section 1399.151.1(e)~~. Such request shall include:

(1) The name of the sponsoring institution, the Board issued professional development provider number (with the exception of those entities listed in Section 2532.6(e)(1)), the address, telephone number, and contact person.

(2) Course title, date(s), location(s), and number of continuing professional development hours offered.

(3) Type and method of educational instruction and learner outcomes to be met.

(4) A course outline, course description, and instructor information and qualifications.

(5) If available, advertisements intended to be used by the provider to advertise the relevant course.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Section 2532.6(b), ~~(e)(1)~~ and ~~(e)(2)~~, Business and Professions Code.

**Amend Section 1399.170.4 of Article 12 of Division 13.4 of the CCR to read as follows:**

**§ 1399.170.4. Eligibility for Approval of Speech-Language Pathology Assistant Training Programs.**

(a) To be eligible for approval by the Board as a speech-language pathology assistant training program (hereinafter referred to as “program”), the sponsoring institution shall be accredited by the Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges.

(b) To be eligible for program approval by the Board, the program director must meet the following requirements:

- (1) hold a current, active, and unrestricted California license,
- (2) have practiced speech-language pathology for at least five (5) years, and
- (3) not be the subject of Board disciplinary action within the past five (5) years.

(c) For the purposes of this section, the terms “disciplinary action” and “restricted California license” shall both mean that the license was revoked, suspended, placed on probation, or publicly reproved.

(d) An educational institution seeking approval of a speech-language pathology assistant program shall:

- (1) Notify the Board in writing, by submitting a request from the officially designated representative of the sponsoring institution and the speech-language pathology assistant program director, of its intent to offer a new program.
- (2) No later than six (6) months prior to the enrollment of students, submit a formal proposal to the Board demonstrating how the program will meet the requirements of Sections 1399.170.5. through 1399.170.10. The Board, at its sole discretion, may retroactively approve programs that enrolled students prior to the effective date of the regulations.

(e) The Board shall review the request and formal proposal and may thereafter grant or deny approval. The Board may request additional information to evaluate the request for approval and shall notify the program of its decision in writing within sixty (60) days from receipt of all requested documents.

(f) A material misrepresentation by the program of any information required to be



submitted to the Board may be grounds for denial of approval or removal of the program from the approved list.

NOTE: Authority cited: Sections 2531.95 and 2538.1, Business and Professions Code. Reference: Section 2538.1, Business and Professions Code.

**Amend Section 1399.170.13 of Article 12 of Division 13.4 of Title 16 of the CCR to read as follows:**

**§ 1399.170.13. Application.**

Each person desiring registration as a speech-language pathology assistant shall file application forms (77A-60 New 08/01 and, if applicable, 77A-61 New 12/99) and any required supporting documentation with the Board ~~as provided in Section 1399.151.1.~~ Upon receipt of the speech-language pathology assistant application, the Board will review the application for registration and notify the applicant of its approval or disapproval.

NOTE: Authority cited: Sections 2531.95 and 2538.1(a), Business and Professions Code. Reference: Section 2538.1(b)(1), Business and Professions Code.