

AMENDED IN SENATE APRIL 1, 2008

SENATE BILL

No. 1402

Introduced by Senator Corbett

February 21, 2008

An act to amend Sections 27, 801, 802.1, and 1005 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1402, as amended, Corbett. ~~Reporting~~ *Reporting* requirements. Existing law provides for the licensure, registration, and regulation of healing arts practitioners by various boards and bureaus, including, but not limited to, the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians of the State of California, the Veterinary Medical Board, the Physical Therapy Board of California, the California State Board of Pharmacy, the Speech-Language Pathology and Audiology Board, the Respiratory Care Board of California, the California Board of Occupational Therapy, and the Bureau of Naturopathic Medicine. Existing law, the Chiropractic Act, a statute enacted by initiative, creates the State Board of Chiropractic Examiners, which licenses and regulates the practice of chiropractic. Existing law requires certain entities within the Department of Consumer Affairs and the Department of Real Estate to provide information, excluding personal information, on the Internet relative to the status of every license issued by the entity, as specified. Existing law requires certain health care providers to report to their licensing boards the bringing of an indictment or information charging a felony against them or their conviction of a felony or misdemeanor. Existing law requires insurers providing professional liability insurance to certain health care professionals to send a complete report to the

applicable licensing entity as to any settlement or arbitration award meeting certain criteria.

This bill would expand the information that the specified licensing entities are required to disclose to the public on the Internet ~~information~~ to include information regarding ~~licensees~~ *licensee's* convictions of a ~~misdemeanor or felony~~ *specified misdemeanors or felonies*, and would add the Board of Chiropractic Examiners *and specified other healing arts boards and bureaus* to the entities required to provide the licensing status information. The bill would require a chiropractor to report to the Board of Chiropractic Examiners the bringing of an indictment or information charging a felony against them or their conviction of any felony or misdemeanor. The bill would also require an insurer providing professional liability insurance to a chiropractor to send a complete report to the Chiropractic Examiners Board, as specified, of any settlement or arbitration award of over \$2,000 of a claim or action for damages meeting certain criteria.

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

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

1 SECTION 1. Section 27 of the Business and Professions Code
 2 is amended to read:
 3 27. (a) Every entity specified in subdivision (b) shall provide
 4 on the Internet information regarding the status of every license
 5 issued by that entity in accordance with the California Public
 6 Records Act (Chapter 3.5 (commencing with Section 6250) of
 7 Division 7 of Title 1 of the Government Code) and the Information
 8 Practices Act of 1977 (Chapter 1 (commencing with Section 1798)
 9 of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public
 10 information to be provided on the Internet shall ~~include information~~
 11 ~~on convictions of licensees of the entity of a misdemeanor or felony,~~
 12 ~~and shall include information on~~ *include information on a*
 13 *misdemeanor conviction that results in a disciplinary action or an*
 14 *accusation that is not subsequently withdrawn or dismissed, or a*
 15 *felony conviction that is reported to the entity by the courts*
 16 *pursuant to Section 803, unless otherwise provided by law, and*
 17 *shall include information on* suspensions and revocations of
 18 licenses issued by the entity and other related enforcement action
 19 taken by the entity relative to persons, businesses, or facilities

1 subject to licensure or regulation by the entity. In providing
2 information on the Internet, each entity shall comply with the
3 Department of Consumer Affairs Guidelines for Access to Public
4 Records. The information may not include personal information,
5 including home telephone number, date of birth, or social security
6 number. Each entity shall disclose a licensee's address of record.
7 However, each entity shall allow a licensee to provide a post office
8 box number or other alternate address, instead of his or her home
9 address, as the address of record. This section shall not preclude
10 an entity from also requiring a licensee, who has provided a post
11 office box number or other alternative mailing address as his or
12 her address of record, to provide a physical business address or
13 residence address only for the entity's internal administrative use
14 and not for disclosure as the licensee's address of record or
15 disclosure on the Internet.

16 (b) Each of the following entities within the Department of
17 Consumer Affairs shall comply with the requirements of this
18 section:

19 (1) The Acupuncture Board shall disclose information on its
20 licensees.

21 (2) The Board of Behavioral Sciences shall disclose information
22 on its licensees, including marriage and family therapists, licensed
23 clinical social workers, and licensed educational psychologists.

24 (3) The Dental Board of California shall disclose information
25 on its licensees.

26 (4) The State Board of Optometry shall disclose information
27 regarding certificates of registration to practice optometry,
28 statements of licensure, optometric corporation registrations, branch
29 office licenses, and fictitious name permits of its licensees.

30 (5) The Board for Professional Engineers and Land Surveyors
31 shall disclose information on its registrants and licensees.

32 (6) The Structural Pest Control Board shall disclose information
33 on its licensees, including applicators, field representatives, and
34 operators in the areas of fumigation, general pest and wood
35 destroying pests and organisms, and wood roof cleaning and
36 treatment.

37 (7) The Bureau of Automotive Repair shall disclose information
38 on its licensees, including auto repair dealers, smog stations, lamp
39 and brake stations, smog check technicians, and smog inspection
40 certification stations.

1 (8) The Bureau of Electronic and Appliance Repair shall disclose
2 information on its licensees, including major appliance repair
3 dealers, combination dealers (electronic and appliance), electronic
4 repair dealers, service contract sellers, and service contract
5 administrators.

6 (9) The Cemetery and Funeral Bureau shall disclose information
7 on its licensees, including cemetery brokers, cemetery salespersons,
8 crematories, and cremated remains disposers.

9 (10) The Cemetery and ~~Funeral~~ *Funeral* Bureau shall disclose
10 information on its licensees, including embalmers, funeral
11 establishments, and funeral directors.

12 (11) The Contractors' State License Board shall disclose
13 information on its licensees in accordance with Chapter 9
14 (commencing with Section 7000) of Division 3. In addition to
15 information related to licenses as specified in subdivision (a), the
16 board shall also disclose information provided to the board by the
17 Labor Commissioner pursuant to Section 98.9 of the Labor Code.

18 (12) The Board of Psychology shall disclose information on its
19 licensees, including psychologists, psychological assistants, and
20 registered psychologists.

21 (13) The Board of Chiropractic Examiners shall disclose
22 information on its licensees.

23 (14) *The Board of Registered Nursing shall disclose information*
24 *on its licensees.*

25 (15) *The Board of Vocational Nursing and Psychiatric*
26 *Technicians of the State of California shall disclose information*
27 *on its licensees.*

28 (16) *The Veterinary Medical Board shall disclose information*
29 *on its licensees and registrants.*

30 (17) *The Physical Therapy Board of California shall disclose*
31 *information on its licensees.*

32 (18) *The California State Board of Pharmacy shall disclose*
33 *information on its licensees.*

34 (19) *The Speech-Language Pathology and Audiology Board*
35 *shall disclose information on its licensees.*

36 (20) *The Respiratory Care Board of California shall disclose*
37 *information on its licensees.*

38 (21) *The California Board of Occupational Therapy shall*
39 *disclose information on its licensees.*

1 (22) *The Bureau of Naturopathic Medicine shall disclose*
2 *information on its licensees.*

3 (c) “Internet” for the purposes of this section has the meaning
4 set forth in paragraph (6) of subdivision (e) of Section 17538.

5 SEC. 2. Section 801 of the Business and Professions Code is
6 amended to read:

7 801. (a) Except as provided in Section 801.01 and subdivisions
8 (b), (c), (d), and (e) of this section, every insurer providing
9 professional liability insurance to a person who holds a license,
10 certificate, or similar authority from or under any agency mentioned
11 in subdivision (a) of Section 800 shall send a complete report to
12 that agency as to any settlement or arbitration award over three
13 thousand dollars (\$3,000) of a claim or action for damages for
14 death or personal injury caused by that person’s negligence, error,
15 or omission in practice, or by his or her rendering of unauthorized
16 professional services. The report shall be sent within 30 days after
17 the written settlement agreement has been reduced to writing and
18 signed by all parties thereto or within 30 days after service of the
19 arbitration award on the parties.

20 (b) Every insurer providing professional liability insurance to
21 a person licensed pursuant to Chapter 13 (commencing with
22 Section 4980) or Chapter 14 (commencing with Section 4990)
23 shall send a complete report to the Board of Behavioral Science
24 Examiners as to any settlement or arbitration award over ten
25 thousand dollars (\$10,000) of a claim or action for damages for
26 death or personal injury caused by that person’s negligence, error,
27 or omission in practice, or by his or her rendering of unauthorized
28 professional services. The report shall be sent within 30 days after
29 the written settlement agreement has been reduced to writing and
30 signed by all parties thereto or within 30 days after service of the
31 arbitration award on the parties.

32 (c) Every insurer providing professional liability insurance to
33 a dentist licensed pursuant to Chapter 4 (commencing with Section
34 1600) shall send a complete report to the Dental Board of
35 California as to any settlement or arbitration award over ten
36 thousand dollars (\$10,000) of a claim or action for damages for
37 death or personal injury caused by that person’s negligence, error,
38 or omission in practice, or rendering of unauthorized professional
39 services. The report shall be sent within 30 days after the written
40 settlement agreement has been reduced to writing and signed by

1 all parties thereto or within 30 days after service of the arbitration
2 award on the parties.

3 (d) Every insurer providing liability insurance to a veterinarian
4 licensed pursuant to Chapter 11 (commencing with Section 4800)
5 shall send a complete report to the Veterinary Medical Board of
6 any settlement or arbitration award over ten thousand dollars
7 (\$10,000) of a claim or action for damages for death or injury
8 caused by that person’s negligence, error, or omission in practice,
9 or rendering of unauthorized professional service. The report shall
10 be sent within 30 days after the written settlement agreement has
11 been reduced to writing and signed by all parties thereto or within
12 30 days after service of the arbitration award on the parties.

13 (e) Every insurer providing liability insurance to a chiropractor
14 licensed pursuant to the Chiropractic Act shall send a complete
15 report to the Board of Chiropractic Examiners of any settlement
16 or arbitration award over two thousand dollars (\$2,000) of a claim
17 or action for damages for death or injury caused by that person’s
18 negligence, error, or omission in practice, or rendering of
19 unauthorized professional service. The report shall be sent within
20 30 days after the written settlement agreement has been reduced
21 to writing and signed by all parties thereto or within 30 days after
22 service of the arbitration award on the parties.

23 (f) The insurer shall notify the claimant, or if the claimant is
24 represented by counsel, the insurer shall notify the claimant’s
25 attorney, that the report required by this section has been sent to
26 the agency. If the attorney has not received this notice within 45
27 days after the settlement was reduced to writing and signed by all
28 of the parties, the arbitration award was served on the parties, or
29 the date of entry of the civil judgment, the attorney shall make the
30 report to the agency.

31 (g) Notwithstanding any other provision of law, no insurer shall
32 enter into a settlement without the written consent of the insured,
33 except that this prohibition shall not void any settlement entered
34 into without that written consent. The requirement of written
35 consent shall only be waived by both the insured and the insurer.

36 SEC. 3. Section 802.1 of the Business and Professions Code
37 is amended to read:

38 802.1. (a) (1) A physician and surgeon, an osteopathic
39 physician and surgeon, a doctor of podiatric medicine, and a

1 chiropractor shall report either of the following to the entity that
2 issued his or her license:

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

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

8 (2) The report required by this subdivision shall be made in
9 writing within 30 days of the date of the bringing of the indictment
10 or information or of the conviction.

11 (b) Failure to make a report required by this section shall be a
12 public offense punishable by a fine not to exceed five thousand
13 dollars (\$5,000).

14 SEC. 4. Section 1005 of the Business and Professions Code is
15 amended to read:

16 1005. The provisions of Sections 12.5, 23.9, 27, 29.5, 30, 31,
17 35, 104, 114, 115, 119, 121, 121.5, 125, 125.6, 136, 137, 140, 141,
18 143, 163.5, 461, 462, 475, 480, 484, 485, 487, 489, 490, 490.5,
19 491, 494, 495, 496, 498, 499, 510, 511, 512, 701, 702, 703, 704,
20 710, 716, 730.5, 731, 801, 802.1, and 851 are applicable to persons
21 licensed by the State Board of Chiropractic Examiners under the
22 Chiropractic Act.