

AMENDED IN ASSEMBLY MAY 5, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 655

Introduced by Assembly Member Hayashi

February 16, 2011

An act to add Section 809.08 to the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 655, as amended, Hayashi. Healing arts: peer review.

Existing law provides for the professional review of specified healing arts licentiates through a peer review process conducted by peer review bodies, as defined.

This bill would require a peer review body to respond to the request of another peer review body and produce ~~a summary of specified information concerning a licentiate under review, as specified.~~ *relevant peer review information about a licentiate that was subject to peer review by the responding peer review body, as determined by the responding peer review body. The bill would require the responding peer review body to determine the manner by which to produce the information, as specified.* The bill would provide that the information produced pursuant to this provision is not subject to discovery, as specified, and may be used only for peer review purposes. The bill would require the requesting peer review body, upon request, to sign a specified sharing agreement with the responding peer review body, and to indemnify the responding peer review body for certain claims relating to the improper release or disclosure of information.

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

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

1 SECTION 1. Section 809.08 is added to the Business and
2 Professions Code, to read:

3 809.08. (a) The Legislature hereby finds and declares that the
4 sharing of information between peer review bodies is essential to
5 protect the public health.

6 (b) Upon receipt of reasonable processing costs, a peer review
7 body shall respond to the request of another peer review body and
8 ~~produce a summary of information that includes the allegations~~
9 ~~and findings, and any conclusions made, any actions taken, and~~
10 ~~the reasons for those actions, reasonably requested concerning a~~
11 ~~licentiate under review to the extent not otherwise prohibited by~~
12 ~~state or federal law. produce relevant peer review information~~
13 ~~about a licentiate that was subject to peer review by the responding~~
14 ~~peer review body. The responding peer review body shall determine~~
15 ~~the manner by which to produce such information and may elect~~
16 ~~to do so through (1) a written summary of relevant peer review~~
17 ~~information or (2) a relevant peer review record or records.~~
18 *Relevant peer review information or peer review records includes,*
19 *but is not limited to, any allegations and findings, any explanatory*
20 *or exculpatory information submitted by the licentiate, any*
21 *conclusions made, any actions taken, and the reasons for those*
22 *actions, to the extent not otherwise prohibited by applicable federal*
23 *or state law. The ~~summary~~ information shall not identify any*
24 *person except the licentiate ~~under review~~. The information*
25 *produced by a peer review body pursuant to this section shall be*
26 *used solely for peer review purposes and shall not be subject to*
27 *discovery to the extent provided in Sections 1156.1 and 1157 of*
28 *the Evidence Code and any other applicable provisions of law.*

29 (c) The responding peer review body acting in good faith is not
30 subject to civil or criminal liability for providing information to
31 the requesting peer review body pursuant to this section. The peer
32 review body responding to the request shall be entitled to all
33 confidentiality protections and privileges provided by law as to
34 the information disclosed pursuant to this section. ~~The~~ *Prior to*
35 *the release of any peer review information pursuant to this section,*
36 *the requesting peer review body shall, upon request, sign a*
37 ~~reasonable~~ *mutually agreeable* peer review sharing agreement with
38 the responding peer review body, and shall also indemnify the

1 responding peer review body for any and all claims, demands,
2 liabilities, losses, damages, costs, and expenses, including
3 reasonable attorney's fees, resulting in any manner, directly or
4 indirectly, from the receiving peer review body's improper release
5 or disclosure of information shared pursuant to this section.

6 (d) ~~The~~ *Prior to the release of any peer review information*
7 *pursuant to this section, the* licentiate under review by the peer
8 review body requesting information pursuant to this section shall,
9 upon request, release the responding peer review body, its
10 members, and the health care entity for which the responding peer
11 review body conducts peer reviews, from liability for the disclosure
12 of information in compliance with this section. If the licentiate
13 does not provide a ~~reasonable~~ release that is acceptable to the
14 responding peer review body, the responding peer review body
15 shall not be obligated to produce any information pursuant to this
16 section.