

AMENDED IN SENATE JUNE 1, 2011

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 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~~ *for a medical disciplinary cause or reason*. 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. *The bill would require the licentiate under review to, upon*

request, release the responding peer review body from liability for the disclosure of information. The bill would specify that the responding peer review body is not obligated to produce information unless certain conditions are met.

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

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

1 SECTION 1. Section 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 relevant peer review information about a licentiate that
 9 was subject to peer review by the responding peer review body
 10 *for a medical disciplinary cause or reason.* The responding peer
 11 review body shall determine the manner by which to produce such
 12 information and may elect to do so through (1) a written summary
 13 of relevant peer review information or (2) a relevant peer review
 14 record ~~or records~~. Relevant peer review information or peer review
 15 ~~records~~ *record* includes, but is not limited to, ~~any~~ allegations and
 16 findings, ~~any~~ explanatory or exculpatory information submitted
 17 by the licentiate, any conclusions made, any actions taken, and the
 18 reasons for those actions, to the extent not otherwise prohibited
 19 by applicable federal or state law. The information shall not
 20 identify any person except the licentiate. The information produced
 21 by a peer review body pursuant to this section shall be used solely
 22 for peer review purposes and shall not be subject to discovery to
 23 the extent provided in Sections 1156.1 and 1157 of the Evidence
 24 Code and any other applicable provisions of law.
 25 (c) The responding peer review body acting in good faith is not
 26 subject to civil or criminal liability for providing information to
 27 the requesting peer review body pursuant to this section. The peer
 28 review body responding to the request shall be entitled to all
 29 confidentiality protections and privileges provided by law as to
 30 the information disclosed pursuant to this section. Prior to the
 31 release of any peer review information pursuant to this section,

1 the requesting peer review body shall, upon request, sign a mutually
2 agreeable peer review sharing agreement with the responding peer
3 review body, and shall also indemnify the responding peer review
4 body for any and all claims, demands, liabilities, losses, damages,
5 costs, and expenses, including reasonable attorney's fees, resulting
6 in any manner, directly or indirectly, from the receiving peer review
7 body's improper release or disclosure of information shared
8 pursuant to this section.

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

19 (e) *The responding peer review body is not obligated to produce
20 the relevant peer review information pursuant to this section unless
21 both of the following conditions are met:*

22 (1) *The licentiate provides a release, as described in subdivision
23 (d), that is acceptable to the responding peer review body.*

24 (2) *The requesting peer review body signs a mutually agreeable
25 peer review sharing agreement, as described in subdivision (c),
26 with the responding peer review body.*