Assembly Bill No. 655

CHAPTER 380

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

[Approved by Governor September 30, 2011. Filed with Secretary of State September 30, 2011.]

LEGISLATIVE COUNSEL’S DIGEST

AB 655, 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 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 that all relevant information produced be made available to the licentiate by the requesting peer review body. 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.

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

SECTION 1. Section 809.08 is added to the Business and Professions Code, to read:
809.08. (a) The Legislature hereby finds and declares that the sharing of information between peer review bodies is essential to protect the public health.
(b) Upon receipt of reasonable processing costs, a peer review body shall 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 for a medical disciplinary cause or
reason. The responding peer review body shall determine the manner by
which to produce such information and may elect to do so through (1) a
written summary of relevant peer review information or (2) a relevant peer
review record. Relevant peer review information or peer review record
includes, but is not limited to, allegations and findings, explanatory or
exculpatory information submitted by the licentiate, any conclusions made,
any actions taken, and the reasons for those actions, to the extent not
otherwise prohibited by applicable federal or state law. The information
shall not identify any person except the licentiate. The information produced
by a peer review body pursuant to this section shall be used solely for peer
review purposes and shall not be subject to discovery to the extent provided
in Sections 1156.1 and 1157 of the Evidence Code and any other applicable
provisions of law. All relevant peer review information produced pursuant
to this section shall be made available to the licentiate by the requesting
peer review body in accordance with Section 809.2.

(c) The responding peer review body acting in good faith is not subject
to civil or criminal liability for providing information to the requesting peer
review body pursuant to this section. The peer review body responding to
the request shall be entitled to all confidentiality protections and privileges
provided by law as to the information disclosed pursuant to this section.
Prior to the release of any peer review information pursuant to this section,
the requesting peer review body shall, upon request, sign a mutually
agreeable peer review sharing agreement with the responding peer review
body, and shall also indemnify the responding peer review body for any
and all claims, demands, liabilities, losses, damages, costs, and expenses,
including reasonable attorney’s fees, resulting in any manner, directly or
indirectly, from the receiving peer review body’s improper release or
disclosure of information shared pursuant to this section.

(d) Prior to the release of any peer review information pursuant to this
section, the licentiate under review by the peer review body requesting
information pursuant to this section shall, upon request, release the
responding peer review body, its members, and the health care entity for
which the responding peer review body conducts peer reviews, from liability
for the disclosure of information in compliance with this section.

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

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

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