

ASSEMBLY BILL

No. 2570

Introduced by Assembly Member Hill
(Coauthor: Senator Correa)

February 24, 2012

An act to add Section 143.5 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2570, as introduced, Hill. Licensees: settlement agreements.

Existing law provides that it is a cause for suspension, disbarment, or other discipline for an attorney to agree or seek agreement that the professional misconduct or the terms of a settlement of a claim for professional misconduct are not to be reported to the disciplinary agency, or to agree or seek agreement that the plaintiff shall withdraw a disciplinary complaint or not cooperate with an investigation or prosecution conducted by the disciplinary agency.

This bill would prohibit a licensee who is regulated by the Department of Consumer Affairs or various boards, bureaus, or programs, or an entity or person acting as an authorized agent of a licensee, from including or permitting to be included a provision in an agreement to settle a civil dispute that prohibits the other party in that dispute from contacting, filing a complaint with, or cooperating with the department, board, bureau, or program, or that requires the other party to withdraw a complaint from the department, board, bureau, or program. A licensee in violation of these provisions would be subject to disciplinary action by the board, bureau, or program. The bill would also prohibit a board, bureau, or program from requiring its licensees in a disciplinary action that is based on a complaint or report that has been settled in a civil

action to pay additional moneys to the benefit of any plaintiff in the civil action.

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 143.5 is added to the Business and
2 Professions Code, to read:

3 143.5. (a) No licensee who is regulated by a board, bureau, or
4 program within the Department of Consumer Affairs, nor an entity
5 or person acting as an authorized agent of a licensee, shall include
6 or permit to be included a provision in an agreement to settle a
7 civil dispute, whether the agreement is made before or after the
8 commencement of a civil action, that prohibits the other party in
9 that dispute from contacting, filing a complaint with, or cooperating
10 with the department, board, bureau, or program or that requires
11 the other party to withdraw a complaint from the department,
12 board, bureau, or program. A provision of that nature is void as
13 against public policy, and any licensee who includes or permits to
14 be included a provision of that nature in a settlement agreement
15 is subject to disciplinary action by the board, bureau, or program.

16 (b) Any board, bureau, or program within the Department of
17 Consumer Affairs that takes disciplinary action against a licensee
18 or licensees based on a complaint or report that has also been the
19 subject of a civil action and that has been settled for monetary
20 damages providing for full and final satisfaction of the parties may
21 not require its licensee or licensees to pay any additional sums to
22 the benefit of any plaintiff in the civil action.

23 (c) As used in this section, “board” shall have the same meaning
24 as defined in Section 22, and “licensee” means a person who has
25 been granted a license, as that term is defined in Section 23.7.

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