

ASSEMBLY BILL

No. 961

Introduced by Assembly Member Levine

February 22, 2013

An act to amend Section 1420 of the Health and Safety Code, to amend Sections 4514 and 5328.15 of, and to add Sections 4514.2 and 5328.17 to, the Welfare and Institutions Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 961, as introduced, Levine. Health facilities: investigations: public disclosure.

Existing law establishes the State Department of Health Care Services and sets forth its powers and duties, including, but not limited to, the licensing and regulation of health facilities, with certain exceptions. Existing law requires the department to investigate complaints relating to long-term health facilities, as defined.

This bill would require the department to complete its investigation and issue a citation within specified time periods, but would allow for an extension of these periods for up to 30 days if the department is unable to complete its investigation due to extenuating circumstances beyond its control, and would require the department to document these circumstances in its final determination.

Existing law requires the confidentiality of all information and records obtained in the course of providing intake, assessment, and services pursuant to specified provisions of existing law to persons with developmental disabilities and to voluntary or involuntary recipients of services under the Lanterman-Petris Short Act or within a prescribed state or county hospital. Existing law authorizes disclosure of this

information to certain authorized licensing personnel who are employed by, or who are authorized representatives of, the State Department of Public Health or State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate health facilities and community care facilities, and to ensure that the standards of care and services provided in these facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facility is subject. Existing law prohibits the confidential information in the possession of these departments from containing the name of the patient or the person with a developmental disability.

This bill would authorize public notice of the survey or licensing reports, or all class “AA,” “A,” or “B” violations issued by the State Department of Public Health, as specified, or facility evaluation, deficiency, or complaint investigation reports issued by the State Department of Social Services, if the information relates to a facility with a license capacity of 16 beds or more and does not include the name or personally identifiable information of any patient or person with a developmental disability. The bill would also prohibit the confidential information in the possession of the State Department of Public Health or State Department of Social Services from containing personally identifiable information about a patient or a person with a disability.

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 1420 of the Health and Safety Code is
 2 amended to read:
 3 1420. (a) (1) Upon receipt of a written or oral complaint, the
 4 state department shall assign an inspector to make a preliminary
 5 review of the complaint and shall notify the complainant within
 6 two working days of the receipt of the complaint of the name of
 7 the inspector. Unless the state department determines that the
 8 complaint is willfully intended to harass a licensee or is without
 9 any reasonable basis, it shall make an onsite inspection or
 10 investigation within 10 working days of the receipt of the
 11 complaint. In any case in which the complaint involves a threat of
 12 imminent danger of death or serious bodily harm, the state
 13 department shall make an onsite inspection or investigation within

1 24 hours of the receipt of the complaint. In any event, the
2 complainant shall be promptly informed of the state department's
3 proposed course of action and of the opportunity to accompany
4 the inspector on the inspection or investigation of the facility. Upon
5 the request of either the complainant or the state department, the
6 complainant or his or her representative, or both, may be allowed
7 to accompany the inspector to the site of the alleged violations
8 during his or her tour of the facility, unless the inspector determines
9 that the privacy of any patient would be violated thereby.

10 (2) When conducting an onsite inspection or investigation
11 pursuant to this section, the state department shall collect and
12 evaluate all available evidence and may issue a citation based
13 upon, but not limited to, all of the following:

14 (A) Observed conditions.

15 (B) Statements of witnesses.

16 (C) Facility records.

17 (3) (A) *The department shall complete its investigation and*
18 *issue a citation, if any, within the following periods:*

19 (i) *If the violation was the direct proximate cause of the death*
20 *of a patient or resident, within 90 days.*

21 (ii) *If the violation presented an imminent danger of death or*
22 *serious harm to a patient or resident or a substantial probability*
23 *of death or serious harm to a patient or resident, within 120 days.*

24 (iii) *If the violation has a direct or immediate relationship to*
25 *the health, safety, or security of a patient or resident, within 180*
26 *days.*

27 (B) *The time periods described in subparagraph (A) may be*
28 *extended by 30 days if the department is unable to complete its*
29 *investigation due to extenuating circumstances beyond its control.*
30 *The department shall document these extenuating circumstances*
31 *in its final determination.*

32 ~~(3)~~

33 (4) Within 10 working days of the completion of the complaint
34 investigation, the state department shall notify the complainant
35 and licensee in writing of the department's determination as a
36 result of the inspection or investigation.

37 (b) Upon being notified of the state department's determination
38 as a result of the inspection or investigation, a complainant who
39 is dissatisfied with the state department's determination, regarding
40 a matter which would pose a threat to the health, safety, security,

1 welfare, or rights of a resident, shall be notified by the state
2 department of the right to an informal conference, as set forth in
3 this section. The complainant may, within five business days after
4 receipt of the notice, notify the director in writing of his or her
5 request for an informal conference. The informal conference shall
6 be held with the designee of the director for the county in which
7 the long-term health care facility which is the subject of the
8 complaint is located. The long-term health care facility may
9 participate as a party in this informal conference. The director's
10 designee shall notify the complainant and licensee of his or her
11 determination within 10 working days after the informal conference
12 and shall apprise the complainant and licensee in writing of the
13 appeal rights provided in subdivision (c).

14 (c) If the complainant is dissatisfied with the determination of
15 the director's designee in the county in which the facility is located,
16 the complainant may, within 15 days after receipt of this
17 determination, notify in writing the Deputy Director of the
18 Licensing and Certification Division of the state department, who
19 shall assign the request to a representative of the Complainant
20 Appeals Unit for review of the facts that led to both determinations.
21 As a part of the Complainant Appeals Unit's independent
22 investigation, and at the request of the complainant, the
23 representative shall interview the complainant in the district office
24 where the complaint was initially referred. Based upon this review,
25 the Deputy Director of the Licensing and Certification Division
26 of the state department shall make his or her own determination
27 and notify the complainant and the facility within 30 days.

28 (d) Any citation issued as a result of a conference or review
29 provided for in subdivision (b) or (c) shall be issued and served
30 upon the facility within three working days of the final
31 determination, unless the licensee agrees in writing to an extension
32 of this time. Service shall be effected either personally or by
33 registered or certified mail. A copy of the citation shall also be
34 sent to each complainant by registered or certified mail.

35 (e) A miniexit conference shall be held with the administrator
36 or his or her representative upon leaving the facility at the
37 completion of the investigation to inform him or her of the status
38 of the investigation. The department shall also state the items of
39 noncompliance and compliance found as a result of a complaint
40 and those items found to be in compliance, provided the disclosure

1 maintains the anonymity of the complainant. In any matter in which
2 there is a reasonable probability that the identity of the complainant
3 will not remain anonymous, the state department shall also notify
4 the facility that it is unlawful to discriminate or seek retaliation
5 against a resident, employee, or complainant.

6 (f) For purposes of this section, “complaint” means any oral or
7 written notice to the state department, other than a report from the
8 facility of an alleged violation of applicable requirements of state
9 or federal law or any alleged facts that might constitute such a
10 violation.

11 SEC. 2. Section 4514 of the Welfare and Institutions Code is
12 amended to read:

13 4514. All information and records obtained in the course of
14 providing intake, assessment, and services under Division 4.1
15 (commencing with Section 4400), Division 4.5 (commencing with
16 Section 4500), Division 6 (commencing with Section 6000), or
17 Division 7 (commencing with Section 7100) to persons with
18 developmental disabilities shall be confidential. Information and
19 records obtained in the course of providing similar services to
20 either voluntary or involuntary recipients prior to 1969 shall also
21 be confidential. Information and records shall be disclosed only
22 in any of the following cases:

23 (a) In communications between qualified professional persons,
24 whether employed by a regional center or state developmental
25 center, or not, in the provision of intake, assessment, and services
26 or appropriate referrals. The consent of the person with a
27 developmental disability, or his or her guardian or conservator,
28 shall be obtained before information or records may be disclosed
29 by regional center or state developmental center personnel to a
30 professional not employed by the regional center or state
31 developmental center, or a program not vended by a regional
32 center or state developmental center.

33 (b) When the person with a developmental disability, who has
34 the capacity to give informed consent, designates individuals to
35 whom information or records may be released, except that nothing
36 in this chapter shall be construed to compel a physician and
37 surgeon, psychologist, social worker, marriage and family therapist,
38 professional clinical counselor, nurse, attorney, or other
39 professional to reveal information that has been given to him or

1 her in confidence by a family member of the person unless a valid
2 release has been executed by that family member.

3 (c) To the extent necessary for a claim, or for a claim or
4 application to be made on behalf of a person with a developmental
5 disability for aid, insurance, government benefit, or medical
6 assistance to which he or she may be entitled.

7 (d) If the person with a developmental disability is a minor,
8 dependent ward, or conservatee, and his or her parent, guardian,
9 conservator, limited conservator with access to confidential records,
10 or authorized representative, designates, in writing, persons to
11 whom records or information may be disclosed, except that nothing
12 in this chapter shall be construed to compel a physician and
13 surgeon, psychologist, social worker, marriage and family therapist,
14 professional clinical counselor, nurse, attorney, or other
15 professional to reveal information that has been given to him or
16 her in confidence by a family member of the person unless a valid
17 release has been executed by that family member.

18 (e) For research, ~~provided that~~ if the Director of Developmental
19 Services designates by regulation rules for the conduct of research
20 and requires the research to be first reviewed by the appropriate
21 institutional review board or boards. These rules shall include, but
22 need not be limited to, the requirement that all researchers shall
23 sign an oath of confidentiality as follows:

24 “ _____
25 _____
26 Date
27

28 As a condition of doing research concerning persons with
29 developmental disabilities who have received services from _____
30 (fill in the facility, agency or person), I, _____, agree to obtain the
31 prior informed consent of persons who have received services to
32 the maximum degree possible as determined by the appropriate
33 institutional review board or boards for protection of human
34 subjects reviewing my research, or the person’s parent, guardian,
35 or conservator, and I further agree not to divulge any information
36 obtained in the course of the research to unauthorized persons, and
37 not to publish or otherwise make public any information regarding
38 persons who have received services so those persons who received
39 services are identifiable.

1 I recognize that the unauthorized release of confidential
2 information may make me subject to a civil action under provisions
3 of the Welfare and Institutions Code.

4
5 _____”
6 Signed
7

8 (f) To the courts, as necessary to the administration of justice.

9 (g) To governmental law enforcement agencies as needed for
10 the protection of federal and state elective constitutional officers
11 and their families.

12 (h) To the Senate Committee on Rules or the Assembly
13 Committee on Rules for the purposes of legislative investigation
14 authorized by the committee.

15 (i) To the courts and designated parties as part of a regional
16 center report or assessment in compliance with a statutory or
17 regulatory requirement, including, but not limited to, Section
18 1827.5 of the Probate Code, Sections 1001.22 and 1370.1 of the
19 Penal Code, and Section 6502 of ~~the Welfare and Institutions Code~~
20 *this code*.

21 (j) To the attorney for the person with a developmental disability
22 in any and all proceedings upon presentation of a release of
23 information signed by the person, except that when the person
24 lacks the capacity to give informed consent, the regional center or
25 state developmental center director or designee, upon satisfying
26 himself or herself of the identity of the attorney, and of the fact
27 that the attorney represents the person, shall release all information
28 and records relating to the person except that nothing in this article
29 shall be construed to compel a physician and surgeon, psychologist,
30 social worker, marriage and family therapist, professional clinical
31 counselor, nurse, attorney, or other professional to reveal
32 information that has been given to him or her in confidence by a
33 family member of the person unless a valid release has been
34 executed by that family member.

35 (k) Upon written consent by a person with a developmental
36 disability previously or presently receiving services from a regional
37 center or state developmental center, the director of the regional
38 center or state developmental center, or his or her designee, may
39 release any information, except information that has been given
40 in confidence by members of the family of the person with

1 developmental disabilities, requested by a probation officer charged
2 with the evaluation of the person after his or her conviction of a
3 crime if the regional center or state developmental center director
4 or designee determines that the information is relevant to the
5 evaluation. The consent shall only be operative until sentence is
6 passed on the crime of which the person was convicted. The
7 confidential information released pursuant to this subdivision shall
8 be transmitted to the court separately from the probation report
9 and shall not be placed in the probation report. The confidential
10 information shall remain confidential except for purposes of
11 sentencing. After sentencing, the confidential information shall be
12 sealed.

13 (l) Between persons who are trained and qualified to serve on
14 “multidisciplinary personnel” teams pursuant to subdivision (d)
15 of Section 18951. The information and records sought to be
16 disclosed shall be relevant to the prevention, identification,
17 management, or treatment of an abused child and his or her parents
18 pursuant to Chapter 11 (commencing with Section 18950) of Part
19 6 of Division 9.

20 (m) When a person with a developmental disability dies from
21 any cause, natural or otherwise, while hospitalized in a state
22 developmental center, the State Department of Developmental
23 Services, the physician and surgeon in charge of the client, or the
24 professional in charge of the facility or his or her designee, shall
25 release information and records to the coroner. The State
26 Department of Developmental Services, the physician and surgeon
27 in charge of the client, or the professional in charge of the facility
28 or his or her designee, shall not release any notes, summaries,
29 transcripts, tapes, or records of conversations between the resident
30 and health professional personnel of the hospital relating to the
31 personal life of the resident that is not related to the diagnosis and
32 treatment of the resident’s physical condition. Any information
33 released to the coroner pursuant to this section shall remain
34 confidential and shall be sealed and shall not be made part of the
35 public record.

36 (n) To authorized licensing personnel who are employed by, or
37 who are authorized representatives of, the State Department of
38 Public Health, and who are licensed or registered health
39 professionals, and to authorized legal staff or special investigators
40 who are peace officers who are employed by, or who are authorized

1 representatives of, the State Department of Social Services, as
2 necessary to the performance of their duties to inspect, license,
3 and investigate health facilities and community care facilities, and
4 to ensure that the standards of care and services provided in these
5 facilities are adequate and appropriate and to ascertain compliance
6 with the rules and regulations to which the facility is subject. The
7 confidential information shall remain confidential except for
8 purposes of inspection, licensing, or investigation pursuant to
9 Chapter 2 (commencing with Section 1250) and Chapter 3
10 (commencing with Section 1500) of Division 2 of the Health and
11 Safety Code, or a criminal, civil, or administrative proceeding in
12 relation thereto. The confidential information may be used by the
13 State Department of Public Health or the State Department of
14 Social Services in a criminal, civil, or administrative proceeding.
15 The confidential information shall be available only to the judge
16 or hearing officer and to the parties to the case. Names which are
17 confidential shall be listed in attachments separate to the general
18 pleadings. The confidential information shall be sealed after the
19 conclusion of the criminal, civil, or administrative hearings, and
20 shall not subsequently be released except in accordance with this
21 subdivision. If the confidential information does not result in a
22 criminal, civil, or administrative proceeding, it shall be sealed after
23 the State Department of Public Health or the State Department of
24 Social Services decides that no further action will be taken in the
25 matter of suspected licensing violations. Except as otherwise
26 provided in this subdivision, confidential information in the
27 possession of the State Department of Public Health or the State
28 Department of Social Services shall not contain the name of the
29 person with a developmental disability *or other personally*
30 *identifiable information.*

31 (o) To any board which licenses and certifies professionals in
32 the fields of mental health and developmental disabilities pursuant
33 to state law, when the Director of Developmental Services has
34 reasonable cause to believe that there has occurred a violation of
35 any provision of law subject to the jurisdiction of a board and the
36 records are relevant to the violation. The information shall be
37 sealed after a decision is reached in the matter of the suspected
38 violation, and shall not subsequently be released except in
39 accordance with this subdivision. Confidential information in the

1 possession of the board shall not contain the name of the person
2 with a developmental disability.

3 (p) To governmental law enforcement agencies by the director
4 of a regional center or state developmental center, or his or her
5 designee, when (1) the person with a developmental disability has
6 been reported lost or missing or (2) there is probable cause to
7 believe that a person with a developmental disability has
8 committed, or has been the victim of, murder, manslaughter,
9 mayhem, aggravated mayhem, kidnapping, robbery, carjacking,
10 assault with the intent to commit a felony, arson, extortion, rape,
11 forcible sodomy, forcible oral copulation, assault or battery, or
12 unlawful possession of a weapon, as provided in any provision
13 listed in Section 16590 of the Penal Code.

14 This subdivision shall be limited solely to information directly
15 relating to the factual circumstances of the commission of the
16 enumerated offenses and shall not include any information relating
17 to the mental state of the patient or the circumstances of his or her
18 treatment unless relevant to the crime involved.

19 This subdivision shall not be construed as an exception to, or in
20 any other way affecting, the provisions of Article 7 (commencing
21 with Section 1010) of Chapter 4 of Division 8 of the Evidence
22 Code, or Chapter 11 (commencing with Section 15600) and
23 Chapter 13 (commencing with Section 15750) of Part 3 of Division
24 9.

25 (q) To the Division of Juvenile Facilities and Department of
26 Corrections and Rehabilitation or any component thereof, as
27 necessary to the administration of justice.

28 (r) To an agency mandated to investigate a report of abuse filed
29 pursuant to either Section 11164 of the Penal Code or Section
30 15630 of the Welfare and Institutions Code for the purposes of
31 either a mandated or voluntary report or when those agencies
32 request information in the course of conducting their investigation.

33 (s) When a person with developmental disabilities, or the parent,
34 guardian, or conservator of a person with developmental disabilities
35 who lacks capacity to consent, fails to grant or deny a request by
36 a regional center or state developmental center to release
37 information or records relating to the person with developmental
38 disabilities within a reasonable period of time, the director of the
39 regional or developmental center, or his or her designee, may

1 release information or records on behalf of that person provided
2 both of the following conditions are met:

3 (1) Release of the information or records is deemed necessary
4 to protect the person's health, safety, or welfare.

5 (2) The person, or the person's parent, guardian, or conservator,
6 has been advised annually in writing of the policy of the regional
7 center or state developmental center for release of confidential
8 client information or records when the person with developmental
9 disabilities, or the person's parent, guardian, or conservator, fails
10 to respond to a request for release of the information or records
11 within a reasonable period of time. A statement of policy contained
12 in the client's individual program plan shall be deemed to comply
13 with the notice requirement of this paragraph.

14 (t) (1) When an employee is served with a notice of adverse
15 action, as defined in Section 19570 of the Government Code, the
16 following information and records may be released:

17 (A) All information and records that the appointing authority
18 relied upon in issuing the notice of adverse action.

19 (B) All other information and records that are relevant to the
20 adverse action, or that would constitute relevant evidence as
21 defined in Section 210 of the Evidence Code.

22 (C) The information described in subparagraphs (A) and (B)
23 may be released only if both of the following conditions are met:

24 (i) The appointing authority has provided written notice to the
25 consumer and the consumer's legal representative or, if the
26 consumer has no legal representative or if the legal representative
27 is a state agency, to the clients' rights advocate, and the consumer,
28 the consumer's legal representative, or the clients' rights advocate
29 has not objected in writing to the appointing authority within five
30 business days of receipt of the notice, or the appointing authority,
31 upon review of the objection has determined that the circumstances
32 on which the adverse action is based are egregious or threaten the
33 health, safety, or life of the consumer or other consumers and
34 without the information the adverse action could not be taken.

35 (ii) The appointing authority, the person against whom the
36 adverse action has been taken, and the person's representative, if
37 any, have entered into a stipulation that does all of the following:

38 (I) Prohibits the parties from disclosing or using the information
39 or records for any purpose other than the proceedings for which
40 the information or records were requested or provided.

1 (II) Requires the employee and the employee's legal
2 representative to return to the appointing authority all records
3 provided to them under this subdivision, including, but not limited
4 to, all records and documents or copies thereof that are no longer
5 in the possession of the employee or the employee's legal
6 representative because they were from any source containing
7 confidential information protected by this section, and all copies
8 of those records and documents, within 10 days of the date that
9 the adverse action becomes final except for the actual records and
10 documents submitted to the administrative tribunal as a component
11 of an appeal from the adverse action.

12 (III) Requires the parties to submit the stipulation to the
13 administrative tribunal with jurisdiction over the adverse action
14 at the earliest possible opportunity.

15 (2) For the purposes of this subdivision, the State Personnel
16 Board may, prior to any appeal from adverse action being filed
17 with it, issue a protective order, upon application by the appointing
18 authority, for the limited purpose of prohibiting the parties from
19 disclosing or using information or records for any purpose other
20 than the proceeding for which the information or records were
21 requested or provided, and to require the employee or the
22 employee's legal representative to return to the appointing authority
23 all records provided to them under this subdivision, including, but
24 not limited to, all records and documents from any source
25 containing confidential information protected by this section, and
26 all copies of those records and documents, within 10 days of the
27 date that the adverse action becomes final, except for the actual
28 records and documents that are no longer in the possession of the
29 employee or the employee's legal representatives because they
30 were submitted to the administrative tribunal as a component of
31 an appeal from the adverse action.

32 (3) Individual identifiers, including, but not limited to, names,
33 social security numbers, and hospital numbers, that are not
34 necessary for the prosecution or defense of the adverse action,
35 shall not be disclosed.

36 (4) All records, documents, or other materials containing
37 confidential information protected by this section that have been
38 submitted or otherwise disclosed to the administrative agency or
39 other person as a component of an appeal from an adverse action
40 shall, upon proper motion by the appointing authority to the

1 administrative tribunal, be placed under administrative seal and
2 shall not, thereafter, be subject to disclosure to any person or entity
3 except upon the issuance of an order of a court of competent
4 jurisdiction.

5 (5) For purposes of this subdivision, an adverse action becomes
6 final when the employee fails to answer within the time specified
7 in Section 19575 of the Government Code, or, after filing an
8 answer, withdraws the appeal, or, upon exhaustion of the
9 administrative appeal or of the judicial review remedies as
10 otherwise provided by law.

11 (u) To the person appointed as the developmental services
12 decisionmaker for a minor, dependent, or ward pursuant to Section
13 319, 361, or 726.

14 (v) To a protection and advocacy agency established pursuant
15 to Section 4901, to the extent that the information is incorporated
16 within any of the following:

17 (1) An unredacted facility evaluation report form or an
18 unredacted complaint investigation report form of the State
19 Department of Social Services. This information shall remain
20 confidential and subject to the confidentiality requirements of
21 subdivision (f) of Section 4903.

22 (2) An unredacted citation report, unredacted licensing report,
23 unredacted survey report, unredacted plan of correction, or
24 unredacted statement of deficiency of the State Department of
25 Public Health, prepared by authorized licensing personnel or
26 authorized representatives described in subdivision (n). This
27 information shall remain confidential and subject to the
28 confidentiality requirements of subdivision (f) of Section 4903.

29 SEC. 3. Section 4514.2 is added to the Welfare and Institutions
30 Code, to read:

31 4514.2. Notwithstanding Section 4514, public notice may be
32 provided of the following information, if the information relates
33 to a facility with a license capacity of 16 beds or more and does
34 not include the name or personally identifiable information of any
35 person with a developmental disability:

36 (a) Survey and licensing reports, and all class "AA," "A," or
37 "B" violations under the standards set forth in Section 1424 of the
38 Health and Safety Code, issued by the State Department of Public
39 Health.

1 (b) Facility evaluation, deficiency, and complaint investigation
2 reports issued by the State Department of Social Services.

3 SEC. 4. Section 5328.15 of the Welfare and Institutions Code
4 is amended to read:

5 5328.15. All information and records obtained in the course
6 of providing services under Division 5 (commencing with Section
7 5000), Division 6 (commencing with Section 6000), or Division
8 7 (commencing with Section 7000), to either voluntary or
9 involuntary recipients of services shall be confidential. Information
10 and records may be disclosed, however, notwithstanding any other
11 provision of law, as follows:

12 (a) To authorized licensing personnel who are employed by, or
13 who are authorized representatives of, the State Department of
14 Public Health, and who are licensed or registered health
15 professionals, and to authorized legal staff or special investigators
16 who are peace officers who are employed by, or who are authorized
17 representatives of the State Department of Social Services, as
18 necessary to the performance of their duties to inspect, license,
19 and investigate health facilities and community care facilities and
20 to ensure that the standards of care and services provided in such
21 facilities are adequate and appropriate and to ascertain compliance
22 with the rules and regulations to which the facility is subject. The
23 confidential information shall remain confidential except for
24 purposes of inspection, licensing, or investigation pursuant to
25 Chapter 2 (commencing with Section 1250) of, and Chapter 3
26 (commencing with Section 1500) of, Division 2 of the Health and
27 Safety Code, or a criminal, civil, or administrative proceeding in
28 relation thereto. The confidential information may be used by the
29 State Department of Public Health or the State Department of
30 Social Services in a criminal, civil, or administrative proceeding.
31 The confidential information shall be available only to the judge
32 or hearing officer and to the parties to the case. Names which are
33 confidential shall be listed in attachments separate to the general
34 pleadings. The confidential information shall be sealed after the
35 conclusion of the criminal, civil, or administrative hearings, and
36 shall not subsequently be released except in accordance with this
37 subdivision. If the confidential information does not result in a
38 criminal, civil, or administrative proceeding, it shall be sealed after
39 the State Department of Public Health or the State Department of
40 Social Services decides that no further action will be taken in the

1 matter of suspected licensing violations. Except as otherwise
2 provided in this subdivision, confidential information in the
3 possession of the State Department of Public Health or the State
4 Department of Social Services shall not contain the name of the
5 patient *or other personally identifiable information*.

6 (b) To any board which licenses and certifies professionals in
7 the fields of mental health pursuant to state law, when the Director
8 of Mental Health has reasonable cause to believe that there has
9 occurred a violation of any provision of law subject to the
10 jurisdiction of that board and the records are relevant to the
11 violation. This information shall be sealed after a decision is
12 reached in the matter of the suspected violation, and shall not
13 subsequently be released except in accordance with this
14 subdivision. Confidential information in the possession of the
15 board shall not contain the name of the patient.

16 (c) To a protection and advocacy agency established pursuant
17 to Section 4901, to the extent that the information is incorporated
18 within any of the following:

19 (1) An unredacted facility evaluation report form or an
20 unredacted complaint investigation report form of the State
21 Department of Social Services. This information shall remain
22 confidential and subject to the confidentiality requirements of
23 subdivision (f) of Section 4903.

24 (2) An unredacted citation report, unredacted licensing report,
25 unredacted survey report, unredacted plan of correction, or
26 unredacted statement of deficiency of the State Department of
27 Public Health, prepared by authorized licensing personnel or
28 authorized representatives described in subdivision (n). This
29 information shall remain confidential and subject to the
30 confidentiality requirements of subdivision (f) of Section 4903.

31 SEC. 5. Section 5328.17 is added to the Welfare and
32 Institutions Code, immediately following Section 5328.15, to read:

33 5328.17. Notwithstanding Section 5328.15, public notice may
34 be provided of the following information, if the information relates
35 to a facility with a license capacity of 16 beds or more and does
36 not include the name or personally identifiable information of any
37 patient:

38 (a) Survey and licensing reports, and all class "AA," "A," or
39 "B" violations under the standards set forth in Section 1424 of the

- 1 Health and Safety Code, issued by the State Department of Public
- 2 Health.
- 3 (b) Facility evaluation, deficiency, and complaint investigation
- 4 reports issued by the State Department of Social Services.

O