

Introduced by Senator Yee

February 14, 2013

An act to amend Section 56.105 of the Civil Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

SB 282, as introduced, Yee. Confidential medical information: required authorization to disclose.

The Confidentiality of Medical Information Act requires, among other things, that a demand for settlement or offer to compromise issued on a patient's behalf prior to the service of a complaint in any action arising out of the professional negligence of a specifically certified physician and surgeon be accompanied by an authorization to disclose medical information to the persons or organizations insuring, responsible for, or defending the professional liability of the physician and surgeon in order to allow an evaluation of the merits of the demand for settlement or offer of compromise.

This bill would extend these provisions to require that the authorization to disclose medical information also accompany a demand for settlement or offer to compromise issued on a patient's behalf prior to the service of a complaint in any action arising out of the professional negligence of a person holding a valid license as a marriage and family therapist, as specified.

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 56.105 of the Civil Code is amended to
2 read:

3 56.105. Whenever, prior to the service of a complaint upon a
4 defendant in any action arising out of the professional negligence
5 of a person holding a valid physician's and surgeon's certificate
6 issued pursuant to Chapter 5 (commencing with Section 2000) of
7 Division 2 of the Business and Professions Code, *or a person*
8 *holding a valid license as a marriage and family therapist issued*
9 *pursuant to Chapter 13 (commencing with Section 4980) of*
10 *Division 2 of the Business and Professions Code*, a demand for
11 settlement or offer to compromise is made on a patient's behalf,
12 the demand or offer shall be accompanied by an authorization to
13 disclose medical information to persons or organizations insuring,
14 responsible for, or defending professional liability that the
15 certificate holder may incur. The authorization shall be in
16 accordance with Section 56.11 and shall authorize disclosure of
17 that information that is necessary to investigate issues of liability
18 and extent of potential damages in evaluating the merits of the
19 demand for settlement or offer to compromise.

20 Notice of any request for medical information made pursuant to
21 an authorization as provided by this section shall be given to the
22 patient or the patient's legal representative. The notice shall
23 describe the inclusive subject matter and dates of the materials
24 requested and shall also authorize the patient or the patient's legal
25 representative to receive, upon request, copies of the information
26 at his or her expense.

27 Nothing in this section shall be construed to waive or limit any
28 applicable privileges set forth in the Evidence Code except for the
29 disclosure of medical information subject to the patient's
30 authorization. Nothing in this section shall be construed as
31 authorizing a representative of any person from whom settlement
32 has been demanded to communicate in violation of the
33 physician-patient privilege with a treating physician, *or to*
34 *communicate in violation of the psychotherapist-patient privilege*
35 *with a treating licensed marriage and family therapist*, except for
36 the medical information request.

- 1 The requirements of this section are independent of the
- 2 requirements of Section 364 of the Code of Civil Procedure.

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