

Senate Bill No. 282

CHAPTER 58

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

[Approved by Governor July 3, 2013. Filed with Secretary
of State July 3, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 282, 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.

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

SECTION 1. Section 56.105 of the Civil Code is amended to read:

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

liability and extent of potential damages in evaluating the merits of the demand for settlement or offer to compromise.

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

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

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