

Senate Bill No. 1847

CHAPTER 260

An act to amend Section 2056 of the Business and Professions Code, relating to medicine.

[Approved by Governor July 20, 1996. Filed with
Secretary of State July 22, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1847, Russell. Physicians and surgeons: patient advice.

Existing law states that it is the public policy of the state that licensed physicians and surgeons be encouraged to advocate for medically appropriate health care, as defined, for their patients. Existing law provides that the application and rendering by any person, as defined, of a decision that penalizes a physician and surgeon principally for advocating for medically appropriate health care, as defined, violates public policy.

This bill would prohibit any person from penalizing a physician and surgeon for that advocacy, or from in any way discouraging a physician and surgeon from communicating information to a patient in furtherance of medically appropriate health care.

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

SECTION 1. Section 2056 of the Business and Professions Code is amended to read:

2056. (a) The purpose of this section is to provide protection against retaliation for physicians who advocate for medically appropriate health care for their patients pursuant to *Wickline v. State of California* 192 Cal. App. 3d 1630.

(b) It is the public policy of the State of California that a physician and surgeon be encouraged to advocate for medically appropriate health care for his or her patients. For purposes of this section, "to advocate for medically appropriate health care" means to appeal a payor's decision to deny payment for a service pursuant to the reasonable grievance or appeal procedure established by a medical group, independent practice association, preferred provider organization, foundation, hospital medical staff and governing body, or payer, or to protest a decision, policy, or practice that the physician, consistent with that degree of learning and skill ordinarily possessed by reputable physicians practicing according to the applicable legal standard of care, reasonably believes impairs the physician's ability to provide medically appropriate health care to his or her patients.

(c) The application and rendering by any person of a decision to terminate an employment or other contractual relationship with, or otherwise penalize, a physician and surgeon principally for advocating for medically appropriate health care consistent with that degree of learning and skill ordinarily possessed by reputable physicians practicing according to the applicable legal standard of care violates the public policy of this state. No person shall terminate, retaliate against, or otherwise penalize a physician and surgeon for that advocacy, nor shall any person prohibit, restrict, or in any way discourage a physician and surgeon from communicating to a patient information in furtherance of medically appropriate health care.

(d) This section shall not be construed to prohibit a payer from making a determination not to pay for a particular medical treatment or service, or to prohibit a medical group, independent practice association, preferred provider organization, foundation, hospital medical staff, hospital governing body acting pursuant to Section 809.05, or payer from enforcing reasonable peer review or utilization review protocols or determining whether a physician has complied with those protocols.

(e) Medically appropriate health care in a hospital licensed pursuant to Section 1250 of the Health and Safety Code shall be defined by the hospital medical staff and approved by the governing body, consistent with that degree of learning and skill ordinarily possessed by reputable physicians practicing according to the applicable legal standard of care.

(f) Nothing in this section shall be construed to prohibit the governing body of a hospital from taking disciplinary actions against a physician and surgeon as authorized by Sections 809.05, 809.4, and 809.5.

(g) Nothing in this section shall be construed to prohibit the Medical Board of California from taking disciplinary actions against a physician and surgeon under Article 12 (commencing with Section 2220).

(h) For purposes of this section, “person” has the same meaning as set forth in Section 2032.

