

**Assembly Bill No. 58**

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Passed the Assembly    September 10, 1999

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*Chief Clerk of the Assembly*

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Passed the Senate    September 9, 1999

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 1999, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*



## CHAPTER \_\_\_\_\_

An act to amend Section 2001 of, to amend and repeal Section 1601 of, and to add Sections 733, 2052.1, and 2052.2 to, the Business and Professions Code, relating to health care practitioners.

## LEGISLATIVE COUNSEL'S DIGEST

AB 58, Davis. Health care practitioners.

Existing law provides for the licensure and regulation of various health care practitioners, as specified.

This bill, to be known as the Leslie-Davis-Figueroa Medical Accountability Act of 1999, would require a chiropractor, dentist, osteopath, pharmacist, psychologist, optometrist, or podiatrist who makes a decision regarding medical necessity or appropriateness that denies, delays, or modifies, any health care service made by a healing arts licentiate acting within his or her scope of practice, to be licensed and to be acting within his or her scope of practice, except as specified. It would specify that this provision does not authorize such a person to deny, delay, or modify a decision of a physician and surgeon, except as specified. The bill would specify various exceptions to these provisions. The bill would provide that a violation of these provisions is a misdemeanor.

The bill would also make it a misdemeanor for any person to make a decision regarding medical necessity or appropriateness that modifies, delays, or denies any health care service made by a physician and surgeon without a valid certificate to practice medicine, except as specified.

The bill would revise the required membership of the Medical Board of California and the Board of Dental Examiners to require at least one member to be a director serving in a health care service plan and having responsibility for final decisions regarding the medical necessity of health care services and the necessity of dental services, respectively. The bill would make the



provisions establishing the Board of Dental Examiners inoperative on January 1, 2002, and repeal those provisions on January 1, 2003, unless those dates are deleted or extended by later enacted legislation. It would also make that repeal subject to review by the Joint Legislative Sunset Review Committee.

By creating new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. This act shall be known, and may be cited as the Leslie-Davis-Figueroa Medical Decision Accountability Act of 1999.

SEC. 2. Section 733 is added to the Business and Professions Code, to read:

733. (a) Any chiropractor, dentist, osteopath, pharmacist, psychologist, optometrist, or podiatrist who makes a decision regarding medical necessity or appropriateness that denies, delays, or modifies in whole or in part, any health care service made by a healing arts licentiate, when the healing arts licentiate is acting within his or her scope of practice, shall do both of the following:

(1) Possess at the time of so doing a valid, unrevoked and unsuspended certificate or license issued by the State of California as a chiropractor, dentist, osteopath, pharmacist, psychologist, optometrist, or podiatrist.

(2) Be acting within his or her scope of practice as defined by law.

(b) Unless it is within a chiropractor's, dentist's, osteopath's, pharmacist's, optometrist's, or podiatrist's scope of practice, a chiropractor, dentist, osteopath, pharmacist, psychologist, optometrist, or podiatrist shall



not be authorized by this section to deny, delay, or modify a decision or recommendation regarding the medical necessity or appropriateness of treatment or care made by a person licensed pursuant to Chapter 5 (commencing with Section 2000). Nothing in this section shall limit a California licensed physician and surgeon practicing within his or her scope of practice from making utilization review or utilization management medical necessity or appropriateness decisions related to the work of chiropractors, dentists, osteopaths, pharmacists, psychologists, optometrists, or podiatrists.

(c) Nothing in this section shall apply to claims decisions made pursuant to Division 4 (commencing with Section 3200) of the Labor Code.

(d) Nothing in this section shall affect actions taken pursuant to Section 1370.4 of the Health and Safety Code or Section 10145.3 of the Insurance Code; or actions taken pursuant to Article 12 (commencing with Section 1399.80) of Chapter 2.25 of Division 2 of Part 7 of the Health and Safety Code and Article 2.55 (commencing with Section 10145.80) of Chapter 1 of Part 2 of Division 2 of the Insurance Code.

(e) Nothing in this section shall apply to claim decisions made under automobile, life, disability-income, malpractice, or homeowners insurance policy.

(f) Nothing in this section shall be construed as limiting the exercise of any treatment by prayer when that treatment is consistent with subdivision (a) of Section 1270 of the Health and Safety Code in lieu of medical treatment.

(g) Any violation of this section is a misdemeanor.

(h) This section shall apply only to this chapter and shall not alter or limit any other theory of liability otherwise available under any other provision of the law.

(i) Nothing in this section shall be construed to grant a healing arts licensing board or examining committee authority to administer or enforce the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code), or the Insurance Code.



SEC. 3. Section 1601 of the Business and Professions Code is amended to read:

1601. (a) There is in the Department of Consumer Affairs a Board of Dental Examiners of California in which the administration of this chapter is vested. The board consists of eight practicing dentists, one registered dental hygienist, one registered dental assistant, and four public members. At least one of the eight dentists shall be a dental director serving in a dental health care service plan and having responsibility for final decisions regarding the necessity of dental services. The board shall be organized into standing committees dealing with examinations, enforcement, and other subjects as the board deems appropriate.

(b) This section shall become inoperative on July 1, 2002, and, as of January 1, 2003, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2003, deletes or extends the date on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 4. Section 2001 of the Business and Professions Code is amended to read:

2001. (a) There is in the Department of Consumer Affairs a Medical Board of California which consists of 19 members, seven of whom shall be public members and at least one of whom shall be a medical director serving in a health care service plan and having responsibility for final decisions regarding the medical necessity of health care services. The Governor shall appoint 17 members to the board, subject to confirmation by the Senate, five of whom shall be public members. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.

(b) This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this



section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 5. Section 2052.1 is added to the Business and Professions Code, to read:

2052.1. Any person who makes a decision regarding medical necessity or appropriateness that denies, delays, or modifies in whole or in part, any health care service made by a physician and surgeon without possessing at the time of so doing a valid, unrevoked, or unsuspended certificate as provided in this chapter is guilty of a misdemeanor. Nothing in this section shall prohibit a person from seeking the advice of, or consultation with, any person who is not licensed to practice medicine in the state.

SEC. 6. Section 2052.2 is added to the Business and Professions Code, to read:

2052.2. (a) Nothing in Section 2052.1 shall be construed as limiting the practice of persons licensed, certified, or otherwise authorized under Division 2 (commencing with Section 500) or the Chiropractic Act or the Osteopathic Act as a chiropractor, dentist, osteopath, pharmacist, psychologist, optometrist, or podiatrist when that person or practitioner is engaged in his or her authorized and licensed practice or consultation, which practice or consultation shall include the rendering of decisions, regarding medical necessity or appropriateness of treatment or care that the licentiate or practitioner is authorized to perform within his or her scope of practice or consultation that denies, delays, or modifies in whole or in part any health care service.

(b) Nothing in Section 2052.1 shall affect actions taken pursuant to Section 1370.4 of the Health and Safety Code or Section 10145.3 of the Insurance Code; or actions taken pursuant to Article 12 (commencing with Section 1399.80) of Chapter 2.25 of Division 2 of Part 7 of the Health and Safety Code and Article 2.55 (commencing with Section 10145.80) of Chapter 1 of Part 2 of Division 2 of the Insurance Code.



(c) Nothing in Section 2052.1 shall apply to claim decisions made under automobile, life, disability-income, malpractice, or homeowners insurance policies.

(d) Nothing in Section 2052.1 shall be construed as limiting the exercise of any treatment by prayer when that treatment is consistent with subdivision (a) of Section 1270 of the Health and Safety Code in lieu of medical treatment.

(e) Nothing in Section 2052.1 shall apply to claim decisions made pursuant to Division 4 (commencing with Section 3200) of the Labor Code.

(f) This section shall only apply to this chapter and shall not alter or limit any other theory of liability otherwise available under any other provision of law.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved \_\_\_\_\_, 1999

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*Governor*

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