

AMENDED IN SENATE AUGUST 31, 1999

AMENDED IN SENATE JULY 8, 1999

AMENDED IN SENATE JULY 2, 1999

AMENDED IN ASSEMBLY MAY 28, 1999

AMENDED IN ASSEMBLY APRIL 26, 1999

AMENDED IN ASSEMBLY APRIL 8, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 62

Introduced by Assembly Member Davis

December 7, 1998

An act to amend Sections 56.05, 56.10, 56.16, and 56.30 of, and to add Section 56.38 to, the Civil Code, to add Section 1364.5 to the Health and Safety Code, and to amend Section 791.02 of the Insurance Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 62, as amended, Davis. Private information.

Existing law, the Confidentiality of Medical Information Act, provides for the confidentiality of medical information, as defined, and imposes restrictions upon the release or disclosure of that information. The act applies to any group practice prepayment health care service plan, among other entities. A patient whose medical information has been used or disclosed in violation of specified provisions of the act may recover specified compensatory and punitive damages,

attorney's fees, and costs of litigation. Under existing law, a violation of the act that results in economic loss or personal injury is also punishable as a misdemeanor.

Existing law also establishes standards for the collection, use, and disclosure of information gathered in connection with insurance transactions. These provisions apply to medical service plans, among other entities. However, group practice prepayment health care service plans are specifically excluded from these provisions, as specified.

This bill would revise the definition of "medical information" for purposes of the Confidentiality of Medical Information Act to specifically include certain personal information, and declare that negligent abandonment or destruction of medical records is punishable as a violation of the act. The bill would provide that the act shall apply to any health care service plan, rather than to any group practice prepayment health care service plan. The bill would revise the exceptions to that act to permit disclosure to any person or entity the provider of health care reasonably believes is responsible for payment of services and for purposes of disease management programs ~~and educational or outreach efforts~~, as specified. It would make a clarifying change. It would also exempt from the act information and records reported to the federal Food and Drug Administration, as specified.

~~The bill would also broaden the scope of administrative remedies available for violations of the act and would create new criminal penalties for knowingly and willfully obtaining or using medical information regarding a patient of a provider of health care in violation of the Confidentiality of Medical Information Act~~ *provide that a health care provider that willfully and knowingly discloses medical information in violation of the act would be subject to an administrative fine.* By expanding the ~~scope~~ *applicability* of an existing crime, this bill would impose a state-mandated local program.

The bill would make conforming changes to the provisions establishing standards for the disclosure of information gathered in connection with insurance transactions.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 56.05 of the Civil Code is
2 amended to read:

3 56.05. For purposes of this part:

4 (a) "Authorization" means permission granted in
5 accordance with Section 56.11 or 56.21 for the disclosure
6 of medical information.

7 (b) "Medical information" means any individually
8 identifiable information in possession of or derived from
9 a provider of health care regarding a patient's medical
10 history, mental or physical condition, or treatment.

11 "Individually identifiable" means that the medical
12 information includes or contains any element of personal
13 identifying information such as the patient's name,
14 address, telephone number, or social security number.

15 "Medical information" does not include information
16 where all individual identifiers are encoded or encrypted
17 and where the ~~identity of the patient~~ *patient's name,*
18 *address, telephone number, or social security number* is
19 not disclosed.

20 (c) "Patient" means any natural person, whether or
21 not still living, who received health care services from a
22 provider of health care and to whom medical information
23 pertains.

24 (d) "Provider of health care" means any person
25 licensed or certified pursuant to Division 2 (commencing
26 with Section 500) of the Business and Professions Code;
27 any person licensed pursuant to the Osteopathic
28 Initiative Act or the Chiropractic Initiative Act; any
29 person certified or licensed pursuant to Division 2.5
30 (commencing with Section 1797) of the Health and
31 Safety Code; any clinic, health dispensary, or health



1 facility licensed pursuant to Division 2 (commencing
2 with Section 1200) of the Health and Safety Code; and any
3 health care service plan regulated pursuant to the
4 Knox-Keene Health Care Service Plan Act of 1975,
5 Chapter 2.2 (commencing with Section 1340) of Division
6 2 of the Health and Safety Code.

7 SEC. 2. Section 56.10 of the Civil Code is amended to
8 read:

9 56.10. (a) No provider of health care shall disclose
10 medical information regarding a patient of the provider
11 without first obtaining an authorization, except as
12 provided in subdivision (b) or (c).

13 (b) A provider of health care shall disclose medical
14 information if the disclosure is compelled by any of the
15 following:

16 (1) By a court pursuant to an order of that court.

17 (2) By a board, commission, or administrative agency
18 for purposes of adjudication pursuant to its lawful
19 authority.

20 (3) By a party to a proceeding before a court or
21 administrative agency pursuant to a subpoena, subpoena
22 duces tecum, notice to appear served pursuant to Section
23 1987 of the Code of Civil Procedure, or any provision
24 authorizing discovery in a proceeding before a court or
25 administrative agency.

26 (4) By a board, commission, or administrative agency
27 pursuant to an investigative subpoena issued under
28 Article 2 (commencing with Section 11180) of Chapter 2
29 of Part 1 of Division 3 of Title 2 of the Government Code.

30 (5) By an arbitrator or arbitration panel, when
31 arbitration is lawfully requested by either party, pursuant
32 to a subpoena duces tecum issued under Section 1282.6 of
33 the Code of Civil Procedure, or any other provision
34 authorizing discovery in a proceeding before an
35 arbitrator or arbitration panel.

36 (6) By a search warrant lawfully issued to a
37 governmental law enforcement agency.

38 (7) When otherwise specifically required by law.

39 (c) A provider of health care may disclose medical
40 information as follows:



1 (1) The information may be disclosed to providers of
2 health care or other health care professionals or facilities
3 for purposes of diagnosis or treatment of the patient. This
4 includes, in an emergency situation, the communication
5 of patient information by radio transmission between
6 emergency medical personnel at the scene of an
7 emergency, or in an emergency medical transport
8 vehicle, and emergency medical personnel at a health
9 facility licensed pursuant to Chapter 2 (commencing
10 with Section 1200) of Division 2 of the Health and Safety
11 Code.

12 (2) The information may be disclosed to an insurer,
13 employer, health care service plan, hospital service plan,
14 employee benefit plan, governmental authority, or any
15 other person or entity that is responsible, or that the
16 provider of health care reasonably thinks is responsible,
17 for paying for health care services rendered to the
18 patient, to the extent necessary to allow responsibility for
19 payment to be determined and payment to be made. If
20 (A) the patient is, by reason of a comatose or other
21 disabling medical condition, unable to consent to the
22 disclosure of medical information and (B) no other
23 arrangements have been made to pay for the health care
24 services being rendered to the patient, the information
25 may be disclosed to a governmental authority to the
26 extent necessary to determine the patient's eligibility for,
27 and to obtain, payment under a governmental program
28 for health care services provided to the patient. The
29 information may also be disclosed to another provider as
30 necessary to assist the other provider in obtaining
31 payment for health care services rendered by that
32 provider to the patient.

33 (3) The information may be disclosed to any person or
34 entity that provides billing, debt collection, credit
35 reporting, claims management, medical data processing,
36 or other administrative services for providers or for any
37 of the persons or entities specified in paragraph (2).
38 However, no information so disclosed shall be further
39 disclosed by the recipient in any way that would be
40 violative of this part.



1 (4) For purposes of disease management programs,
2 information may be disclosed to any ~~person or entity to~~
3 ~~administer a benefit plan or health and utilization~~
4 ~~management program offered to beneficiaries by the~~
5 ~~benefit plan.~~ *entity contracting with a provider to*
6 *monitor or administer care of patients for a covered*
7 *benefit.*

8 (5) The information may be disclosed to organized
9 committees and agents of professional societies or of
10 medical staffs of licensed hospitals, or to licensed health
11 care service plans, or to professional standards review
12 organizations, or to utilization and quality control peer
13 review organizations as established by Congress in Public
14 Law 97-248 in 1982, or to persons or organizations
15 insuring, responsible for, or defending professional
16 liability that a provider may incur, if the committees,
17 agents, plans, organizations, or persons are engaged in
18 reviewing the competence or qualifications of health care
19 professionals or in reviewing health care services with
20 respect to medical necessity, level of care, quality of care,
21 or justification of charges.

22 (6) The information in the possession of any provider
23 of health care may be reviewed by any private or public
24 body responsible for licensing or accrediting the provider
25 of health care. However, no patient identifying medical
26 information may be removed from the premises except
27 as expressly permitted or required elsewhere by law.

28 (7) The information may be disclosed to the county
29 coroner in the course of an investigation by the coroner's
30 office.

31 (8) The information may be disclosed to public
32 agencies, clinical investigators, health care research
33 organizations, and accredited public or private nonprofit
34 educational or health care institutions for bona fide
35 research purposes. However, no information so disclosed
36 shall be further disclosed by the recipient in any way that
37 would permit identification of the patient.

38 (9) A provider of health care that has created medical
39 information as a result of employment-related health care
40 services to an employee conducted at the specific prior



1 written request and expense of the employer may
2 disclose to the employee's employer that part of the
3 information that:

4 (A) Is relevant in a law suit, arbitration, grievance, or
5 other claim or challenge to which the employer and the
6 employee are parties and in which the patient has placed
7 in issue his or her medical history, mental or physical
8 condition, or treatment, provided it may only be used or
9 disclosed in connection with that proceeding.

10 (B) Describes functional limitations of the patient that
11 may entitle the patient to leave from work for medical
12 reasons or limit the patient's fitness to perform his or her
13 present employment, provided that no statement of
14 medical cause is included in the information disclosed.

15 (10) Unless the provider is notified in writing of an
16 agreement by the sponsor, insurer, or administrator to
17 the contrary, the information may be disclosed to a
18 sponsor, insurer, or administrator of a group or individual
19 insured or uninsured plan or policy that the patient seeks
20 coverage by or benefits from, if the information was
21 created by the provider of health care as the result of
22 services conducted at the specific prior written request
23 and expense of the sponsor, insurer, or administrator for
24 the purpose of evaluating the application for coverage or
25 benefits.

26 (11) The information may be disclosed to a group
27 practice prepayment health care service plan by
28 providers that contract with the plan and may be
29 transferred among providers that contract with the plan,
30 for the purpose of administering the plan. Medical
31 information may not otherwise be disclosed by a health
32 care service plan except in accordance with the
33 provisions of this part.

34 (12) Nothing in this part shall prevent the disclosure
35 by a provider of health care to an insurance institution,
36 agent, or support organization, subject to Article 6.6
37 (commencing with Section 791) of Part 2 of Division 1 of
38 the Insurance Code, of medical information if the
39 insurance institution, agent, or support organization has
40 complied with all requirements for obtaining the



1 information pursuant to Article 6.6 (commencing with
2 Section 791) of Part 2 of Division 1 of the Insurance Code.

3 (13) The information relevant to the patient's
4 condition and care and treatment provided may be
5 disclosed to a probate court investigator engaged in
6 determining the need for an initial conservatorship or
7 continuation of an existent conservatorship, if the patient
8 is unable to give informed consent, or to a probate court
9 investigator, probation officer, or domestic relations
10 investigator engaged in determining the need for an
11 initial guardianship or continuation of an existent
12 guardianship.

13 (14) To a tissue bank processing the tissue of a
14 decedent for transplantation into the body of another
15 person, but only with respect to the donating decedent,
16 for the purpose of aiding the transplant. For the purpose
17 of this paragraph, the terms "tissue bank" and "tissue"
18 have the same meaning as defined in Section 1635 of the
19 Health and Safety Code.

20 (15) When the disclosure is otherwise specifically
21 authorized by law.

22 (16) Basic information including the patient's name,
23 city of residence, age, sex, and general condition may be
24 released to a state or federally recognized disaster relief
25 organization for the purpose of responding to disaster
26 welfare inquiries.

27 ~~(17) The information may be used by a provider of~~
28 ~~health care to do mailings to the provider's members for~~
29 ~~educational or outreach efforts.~~

30 (d) Every provider of health care who abandons or
31 destroys medical records shall do so in a manner such that
32 the records cannot be retrieved in any legible form and
33 that preserves the confidentiality of the information
34 contained therein. Any provider of health care who
35 negligently abandons or destroys medical records shall be
36 subject to liability for the damages, fines, and penalties
37 provided in Sections 56.35 and 56.38. Nothing in this
38 subdivision is intended to preclude any other remedies
39 available to the patient.



1 SEC. 3. Section 56.16 of the Civil Code is amended to
2 read:

3 56.16. Unless there is a specific written request by the
4 patient to the contrary, nothing in this part shall be
5 construed to prevent a provider, upon an inquiry
6 concerning a specific patient, from releasing at its
7 discretion any of the following information: the patient's
8 name, address, age, and sex; a general description of the
9 reason for treatment (whether an injury, a burn,
10 poisoning, or some unrelated condition); the general
11 nature of the injury, burn, poisoning, or other condition;
12 the general condition of the patient; and any information
13 that is not medical information as defined in subdivision
14 (b) of Section 56.05.

15 SEC. 4. Section 56.30 of the Civil Code is amended to
16 read:

17 56.30. The disclosure and use of the following medical
18 information shall not be subject to the limitations of this
19 part:

20 (a) (Mental health and developmental disabilities)
21 Information and records obtained in the course of
22 providing services under Division 4 (commencing with
23 Section 4001), Division 4.1 (commencing with Section
24 4400), Division 4.5 (commencing with Section 4500),
25 Division 5 (commencing with Section 5000), Division 6
26 (commencing with Section 6000), or Division 7
27 (commencing with Section 7100) of the Welfare and
28 Institutions Code.

29 (b) (Public social services) Information and records
30 that are subject to Sections 10850, 14124.1, and 14124.2 of
31 the Welfare and Institutions Code.

32 (c) (State health services, communicable diseases,
33 developmental disabilities) Information and records
34 maintained pursuant to former Chapter 2 (commencing
35 with Section 200) of Part 1 of Division 1 of the Health and
36 Safety Code and pursuant to the Communicable Disease
37 Prevention and Control Act (subdivision (a) of Section 27
38 of the Health and Safety Code).

39 (d) (Licensing and statistics) Information and records
40 maintained pursuant to Division 2 (commencing with



1 Section 1200) and Part 1 (commencing with Section
2 102100) of the Health and Safety Code; pursuant to
3 Chapter 3 (commencing with Section 1200) of Division
4 2 of the Business and Professions Code; and pursuant to
5 Section 8608, 8706, 8817, or 8909 of the Family Code.

6 (e) (Medical survey, workers' safety) Information and
7 records acquired and maintained or disclosed pursuant to
8 Sections 1380 and 1382 of the Health and Safety Code and
9 pursuant to Division 5 (commencing with Section 6300)
10 of the Labor Code.

11 (f) (Industrial accidents) Information and records
12 acquired, maintained, or disclosed pursuant to Division 1
13 (commencing with Section 50), Division 4 (commencing
14 with Section 3201), Division 4.5 (commencing with
15 Section 6100), and Division 4.7 (commencing with
16 Section 6200) of the Labor Code.

17 (g) (Law enforcement) Information and records
18 maintained by a health facility which are sought by a law
19 enforcement agency under Chapter 3.5 (commencing
20 with Section 1543) of Title 12 of Part 2 of the Penal Code.

21 (h) (Investigations of employment accident or illness)
22 Information and records sought as part of an investigation
23 of an on-the-job accident or illness pursuant to Division 5
24 (commencing with Section 6300) of the Labor Code or
25 pursuant to Section 105200 of the Health and Safety Code.

26 (i) (Alcohol or drug abuse) Information and records
27 subject to the federal alcohol and drug abuse regulations
28 (Part 2 (commencing with Section 2.1) of subchapter A
29 of Chapter 1 of Title 42 of the Code of Federal
30 Regulations) or to Section 11977 of the Health and Safety
31 Code dealing with narcotic and drug abuse.

32 (j) (Patient discharge data) Nothing in this part shall
33 be construed to limit, expand, or otherwise affect the
34 authority of the California Health Facilities Commission
35 to collect patient discharge information from health
36 facilities pursuant to Section 441.18 of the Health and
37 Safety Code.

38 (k) Medical information and records disclosed to, and
39 their use by, the Insurance Commissioner, the
40 Commissioner of Corporations, the Division of Industrial



1 Accidents, the Workers' Compensation Appeals Board,
2 the Department of Insurance, or the Department of
3 Corporations.

4 (l) Information and records voluntarily reported,
5 directly or indirectly, by a provider of health care to the
6 federal Food and Drug Administration of "adverse
7 events" or "medical product problems" as defined in
8 federal law or regulation.

9 SEC. 5. Section 56.38 is added to the Civil Code, to
10 read:

11 56.38. ~~(a)~~ A provider of health care that *knowingly*
12 *and willfully* discloses medical information in violation of
13 this part shall also be liable, irrespective of the amount of
14 damages suffered by the patient as a result of that
15 violation, for an administrative fine not to exceed two
16 thousand five hundred dollars (\$2,500) per violation, that
17 may be assessed and collected by the appropriate
18 licensing agency or certifying board.

19 ~~(b) Any person who knowingly and willfully obtains or~~
20 ~~uses medical information regarding a patient of a~~
21 ~~provider of health care in violation of this part shall be~~
22 ~~fined not more than ten thousand dollars (\$10,000) per~~
23 ~~violation, or imprisoned in a county jail for not more than~~
24 ~~one year, or by both that fine and imprisonment.~~

25 ~~(c) Any person who knowingly and willfully obtains or~~
26 ~~uses medical information regarding a patient of a~~
27 ~~provider in violation of this article may be fined by the~~
28 ~~appropriate licensing agency or certifying board not~~
29 ~~more than ten thousand dollars (\$10,000) per violation.~~

30 SEC. 6. Section 1364.5 is added to the Health and
31 Safety Code, to read:

32 1364.5. Every health care service plan licensed
33 pursuant to this chapter shall be subject to the
34 Confidentiality of Medical Information Act, Part 2.6
35 (commencing with Section 56) of Division 1 of the Civil
36 Code.

37 SEC. 7. Section 791.02 of the Insurance Code is
38 amended to read:

39 791.02. As used in this act:



1 (a) (1) “Adverse underwriting decision” means any
2 of the following actions with respect to insurance
3 transactions involving insurance coverage which is
4 individually underwritten:

5 (A) A declination of insurance coverage.

6 (B) A termination of insurance coverage.

7 (C) Failure of an agent to apply for insurance
8 coverage with a specific insurance institution which the
9 agent represents and which is requested by an applicant.

10 (D) In the case of a property or casualty insurance
11 coverage:

12 (i) Placement by an insurance institution or agent of
13 a risk with a residual market mechanism, with an
14 unauthorized insurer, or with an insurance institution
15 which provides insurance to other than preferred or
16 standard risks, if in fact the placement is at other than a
17 preferred or standard rate. An adverse underwriting
18 decision, in case of placement with an insurance
19 institution which provides insurance to other than
20 preferred or standard risks, shall not include that
21 placement where the applicant or insured did not specify
22 or apply for placement as a preferred or standard risk or
23 placement with a particular company insuring preferred
24 or standard risks, or

25 (ii) The charging of a higher rate on the basis of
26 information which differs from that which the applicant
27 or policyholder furnished.

28 (E) In the case of a life, health or disability insurance
29 coverage, an offer to insure at higher than standard rates.

30 (2) Notwithstanding paragraph (1), any of the
31 following actions shall not be considered adverse
32 underwriting decisions but the insurance institution or
33 agent responsible for their occurrence shall nevertheless
34 provide the applicant or policyholder with the specific
35 reason or reasons for their occurrence:

36 (A) The termination of an individual policy form on a
37 class or statewide basis.

38 (B) A declination of insurance coverage solely because
39 such coverage is not available on a class or statewide basis.

40 (C) The rescission of a policy.



1 (b) “Affiliate” or “affiliated” means a person that
2 directly, or indirectly through one or more
3 intermediaries, controls, is controlled by or is under
4 common control with another person.

5 (c) “Agent” means any person licensed pursuant to
6 Chapter 5 (commencing with Section 1621), Chapter 5A
7 (commencing with Section 1759), Chapter 6
8 (commencing with Section 1760), Chapter 7
9 (commencing with Section 1800), or Chapter 8
10 (commencing with Section 1831).

11 (d) “Applicant” means any person who seeks to
12 contract for insurance coverage other than a person
13 seeking group insurance that is not individually
14 underwritten.

15 (e) “Consumer report” means any written, oral or
16 other communication of information bearing on a natural
17 person’s creditworthiness, credit standing, credit
18 capacity, character, general reputation, personal
19 characteristics or mode of living which is used or
20 expected to be used in connection with an insurance
21 transaction.

22 (f) “Consumer reporting agency” means any person
23 who:

24 (1) Regularly engages, in whole or in part, in the
25 practice of assembling or preparing consumer reports for
26 a monetary fee.

27 (2) Obtains information primarily from sources other
28 than insurance institutions.

29 (3) Furnishes consumer reports to other persons.

30 (g) “Control,” including the terms “controlled by” or
31 “under common control with,” means the possession,
32 direct or indirect, of the power to direct or cause the
33 direction of the management and policies of a person,
34 whether through the ownership of voting securities, by
35 contract other than a commercial contract for goods or
36 nonmanagement services, or otherwise, unless the power
37 is the result of an official position with or corporate office
38 held by the person.



1 (h) “Declination of insurance coverage” means a
2 denial, in whole or in part, by an insurance institution or
3 agent of requested insurance coverage.

4 (i) “Individual” means any natural person who:

5 (1) In the case of property or casualty insurance, is a
6 past, present or proposed named insured or certificate
7 holder;

8 (2) In the case of life or disability insurance, is a past,
9 present or proposed principal insured or certificate
10 holder;

11 (3) Is a past, present or proposed policyowner;

12 (4) Is a past or present applicant; or

13 (5) Is a past or present claimant; or

14 (6) Derived, derives or is proposed to derive insurance
15 coverage under an insurance policy or certificate subject
16 to this act.

17 (j) “Institutional source” means any person or
18 governmental entity that provides information about an
19 individual to an agent, insurance institution or
20 insurance-support organization, other than:

21 (1) An agent,

22 (2) The individual who is the subject of the
23 information, or

24 (3) A natural person acting in a personal capacity
25 rather than in a business or professional capacity.

26 (k) “Insurance institution” means any corporation,
27 association, partnership, reciprocal exchange,
28 interinsurer, Lloyd’s insurer, fraternal benefit society or
29 other person engaged in the business of insurance,
30 including hospital service plans. “Insurance institution”
31 shall not include agents, insurance-support organizations,
32 or health care service plans regulated pursuant to the
33 Knox-Keene Health Care Service Plan Act, Chapter 2.2
34 (commencing with Section 1340) of Division 2 of the
35 Health and Safety Code.

36 (l) “Insurance-support organization” means:

37 (1) Any person who regularly engages, in whole or in
38 part, in the business of assembling or collecting
39 information about natural persons for the primary



1 purpose of providing the information to an insurance
2 institution or agent for insurance transactions, including:

3 (A) The furnishing of consumer reports or
4 investigative consumer reports to an insurance
5 institution or agent for use in connection with an
6 insurance transaction, or

7 (B) The collection of personal information from
8 insurance institutions, agents or other insurance-support
9 organizations for the purpose of detecting or preventing
10 fraud, material misrepresentation or material
11 nondisclosure in connection with insurance underwriting
12 or insurance claim activity.

13 (2) Notwithstanding paragraph (1), the following
14 persons shall not be considered “insurance-support
15 organizations”: agents, governmental institutions,
16 insurance institutions, medical care institutions, medical
17 professionals, and peer review committees.

18 (m) “Insurance transaction” means any transaction
19 involving insurance primarily for personal, family or
20 household needs rather than business or professional
21 needs which entails:

22 (1) The determination of an individual’s eligibility for
23 an insurance coverage, benefit or payment, or

24 (2) The servicing of an insurance application, policy,
25 contract or certificate.

26 (n) “Investigative consumer report” means a
27 consumer report or portion thereof in which information
28 about a natural person’s character, general reputation,
29 personal characteristics or mode of living is obtained
30 through personal interviews with the person’s neighbors,
31 friends, associates, acquaintances or others who may have
32 knowledge concerning such items of information.

33 (o) “Medical care institution” means any facility or
34 institution that is licensed to provide health care services
35 to natural persons, including but not limited to, hospitals,
36 skilled nursing facilities, home health agencies, medical
37 clinics, rehabilitation agencies and public health
38 agencies.

39 (p) “Medical professional” means any person licensed
40 or certified to provide health care services to natural



1 persons, including but not limited to, a physician, dentist,
2 nurse, optometrist, physical or occupational therapist,
3 psychiatric social worker, clinical dietitian, clinical
4 psychologist, chiropractor, pharmacist, or speech
5 therapist.

6 (q) “Medical record information” means personal
7 information which:

8 (1) Relates to an individual’s physical or mental
9 condition, medical history or medical treatment, and

10 (2) Is obtained from a medical professional or medical
11 care institution, from the individual, or from the
12 individual’s spouse, parent or legal guardian.

13 (r) “Person” means any natural person, corporation,
14 association, partnership, limited liability company, or
15 other legal entity.

16 (s) “Personal information” means any individually
17 identifiable information gathered in connection with an
18 insurance transaction from which judgments can be
19 made about an individual’s character, habits, avocations,
20 finances, occupation, general reputation, credit, health or
21 any other personal characteristics. “Personal
22 information” includes an individual’s name and address
23 and “medical record information” but does not include
24 “privileged information.”

25 (t) “Policyholder” means any person who:

26 (1) In the case of individual property or casualty
27 insurance, is a present named insured;

28 (2) In the case of individual life or disability insurance,
29 is a present policyowner; or

30 (3) In the case of group insurance which is individually
31 underwritten, is a present group certificate holder.

32 (u) “Pretext interview” means an interview whereby
33 a person, in an attempt to obtain information about a
34 natural person, performs one or more of the following
35 acts:

36 (1) Pretends to be someone he or she is not,

37 (2) Pretends to represent a person he or she is not in
38 fact representing,

39 (3) Misrepresents the true purpose of the interview, or

40 (4) Refuses to identify himself or herself upon request.



1 (v) “Privileged information” means any individually
2 identifiable information that both:

3 (1) Relates to a claim for insurance benefits or a civil
4 or criminal proceeding involving an individual.

5 (2) Is collected in connection with or in reasonable
6 anticipation of a claim for insurance benefits or civil or
7 criminal proceeding involving an individual. However,
8 information otherwise meeting the requirements of this
9 division shall nevertheless be considered “personal
10 information” under this act if it is disclosed in violation of
11 Section 791.13.

12 (w) “Residual market mechanism” means the
13 California FAIR Plan Association, Chapter 10
14 (commencing with Section 10101) of Part 1 of Division 2,
15 and the assigned risk plan, Chapter 1 (commencing with
16 Section 11550) of Part 3 of Division 2.

17 (x) “Termination of insurance coverage” or
18 “termination of an insurance policy” means either a
19 cancellation or nonrenewal of an insurance policy, in
20 whole or in part, for any reason other than the failure to
21 pay a premium as required by the policy.

22 (y) “Unauthorized insurer” means an insurance
23 institution that has not been granted a certificate of
24 authority by the commissioner to transact the business of
25 insurance in this state.

26 (z) “Commissioner” means the Insurance
27 Commissioner.

28 SEC. 8. No reimbursement is required by this act
29 pursuant to Section 6 of Article XIII B of the California
30 Constitution because the only costs that may be incurred
31 by a local agency or school district will be incurred
32 because this act creates a new crime or infraction,
33 eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section
35 17556 of the Government Code, or changes the definition
36 of a crime within the meaning of Section 6 of Article
37 XIII B of the California Constitution.

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