

AMENDED IN ASSEMBLY AUGUST 7, 2000
AMENDED IN ASSEMBLY AUGUST 31, 1999
AMENDED IN ASSEMBLY JULY 7, 1999
AMENDED IN SENATE APRIL 12, 1999

SENATE BILL

No. 1305

**Introduced by ~~Senators Figueroa and Escutia~~ Senator
Figueroa**

March 11, 1999

~~An act relating to medical malpractice settlements, and making an appropriation therefor. An act to amend Section 2802 of the Labor Code, relating to employment.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1305, as amended, Figueroa. ~~Medical malpractice settlements: report~~ *Employer indemnification: interest.*

Existing law requires an employer to indemnify his or her employees for all that the employee necessarily expends or loses in direct consequence of the discharge of the employee's duties or as a result of obeying the employer's directions.

This bill would require that awards for reimbursement of expenditures by a court, or by the Division of Labor Standards Enforcement, carry interest at the same rate as judgments in civil actions, accruing from the date the employee incurred the necessary expense.

This bill would define necessary expenses to include all reasonable costs, including attorney's fees, incurred enforcing the rights granted by this section.

~~Existing law regulates the certification of physicians and surgeons by the Medical Board of California and establishes the Contingent Fund of the Medical Board of California, which is continuously appropriated for the purposes of the board.~~

~~This bill would require the board to study medical malpractice settlements and patterns of claims or actions for damages for death or personal injury, as specified, and prepare a report to the Legislature no later than July 1, 2001. The bill would appropriate \$150,000 from the fund for the purposes of this bill.~~

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

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

1 ~~SECTION 1. (a) The Medical Board of California~~
2 *SECTION 1. Section 2802 of the Labor Code is*
3 *amended to read:*
4 2802. (a) An employer shall indemnify his or her
5 employee for all that the employee necessarily expends
6 or loses in direct consequence of the discharge of his or
7 her duties ~~as such~~, or of his or her obedience to the
8 directions of the employer, even though unlawful, unless
9 the employee, at the time of obeying ~~such~~ *the* directions,
10 believed them to be unlawful.
11 (b) *All awards by a court or by the Division of Labor*
12 *Standards Enforcement for reimbursement of necessary*
13 *expenditures under this section shall carry interest at the*
14 *same rate as judgments in civil actions. Interest shall*
15 *accrue from the date on which the employee incurred the*
16 *necessary expenditure.*
17 (c) *For purposes of this section, necessary*
18 *expenditures shall include all reasonable costs, including,*
19 *but not limited to, attorney's fees, incurred enforcing the*
20 *rights granted by this section.*
21 ~~shall study medical malpractice settlements and patterns~~
22 ~~of settlements of claims or actions for damages for death~~
23 ~~or personal injury caused by a physician's negligence,~~
24 ~~error, or omission in practice, or rendering of~~



1 ~~unauthorized professional services to determine: (1)~~
2 ~~whether there is a relationship between such settlements~~
3 ~~or patterns of settlements and disciplinary actions by the~~
4 ~~board; and (2) the extent to which information on~~
5 ~~settlements and patterns of settlements is relevant to~~
6 ~~patients in evaluating a physician's competence.~~

7 ~~(b) While conducting this study pursuant to this~~
8 ~~section, the board shall consult with representatives of~~
9 ~~parties who have an interest in the issue, including, but~~
10 ~~not limited to, physicians, patients, and consumer groups.~~

11 ~~(c) The board shall have the authority to contract with~~
12 ~~outside entities to conduct the study required by this~~
13 ~~section.~~

14 ~~(d) The sum of one hundred fifty thousand dollars~~
15 ~~(\$150,000) is hereby appropriated from the Contingent~~
16 ~~Fund of the Medical Board of California to the board in~~
17 ~~order to conduct the study and prepare the report~~
18 ~~required by this act.~~

19 ~~(e) The board shall report to the Legislature on the~~
20 ~~results of the study no later than July 1, 2001.~~

