

Introduced by Senator Alquist

January 6, 2009

An act to add Section 851.5 to the Business and Professions Code, and to amend Section 1095 of the Unemployment Insurance Code, relating to health professions.

LEGISLATIVE COUNSEL'S DIGEST

SB 43, as introduced, Alquist. Health professions.

Existing law provides for the licensure and regulation of various healing arts by boards within the Department of Consumer Affairs. Existing law establishes the Task Force on Culturally and Linguistically Competent Physicians and Dentists and assigns the task force various duties, including, among other things, identifying the key cultural elements necessary to meet cultural competency. Existing law authorizes physicians and surgeons, dentists, and dental auxiliaries to report information regarding their cultural background and foreign language proficiency to their respective licensing boards and requires those boards to collect that information, as specified.

This bill would authorize the healing arts boards, as defined, to collect information regarding the cultural and linguistic competency of persons licensed, certified, registered, or otherwise subject to regulation by those boards. The bill would require that this information be used for the purpose of meeting the cultural and linguistic concerns of the state's diverse patient population.

Existing law requires the Office of Statewide Health Planning and Development to establish a health care workforce clearinghouse to serve as the central source of health care workforce and educational data in the state. Existing law requires the Director of the Employment

Development Department to permit the use of information in his or her possession for specified purposes.

This bill would additionally require the director to permit the use of that information in order to enable the Office of Statewide Health Planning and Development to obtain specified data for the health care workforce clearinghouse.

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

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

1 SECTION 1. Section 851.5 is added to the Business and
2 Professions Code, to read:

3 851.5. (a) A healing arts board referred to in this division may,
4 in a manner deemed appropriate by the board, collect information
5 regarding the cultural and linguistic competency of persons
6 licensed, certified, registered, or otherwise subject to regulation
7 by that board.

8 (b) The information collected pursuant to this section shall be
9 used for the purpose of meeting the cultural and linguistic concerns
10 of the state's diverse patient population.

11 (c) Personally identifiable information collected pursuant to this
12 section shall be confidential and not subject to public inspection.

13 (d) The authority provided in this section shall be in addition
14 to, and not a limitation on, the authority provided under subdivision
15 (c) of Section 2425.3 and subdivision (d) of Section 1717.5.

16 (e) For purposes of this section, "board" refers to any healing
17 arts board, division, or examining committee that licenses, certifies,
18 or regulates health professionals pursuant to this division.

19 SEC. 2. Section 1095 of the Unemployment Insurance Code
20 is amended to read:

21 1095. The director shall permit the use of any information in
22 his or her possession to the extent necessary for any of the
23 following purposes and may require reimbursement for all direct
24 costs incurred in providing any and all information specified in
25 this section, except information specified in subdivisions (a) to
26 (e), inclusive:

27 (a) To enable the director or his or her representative to carry
28 out his or her responsibilities under this code.

29 (b) To properly present a claim for benefits.

1 (c) To acquaint a worker or his or her authorized agent with his
2 or her existing or prospective right to benefits.

3 (d) To furnish an employer or his or her authorized agent with
4 information to enable him or her to fully discharge his or her
5 obligations or safeguard his or her rights under this division or
6 Division 3 (commencing with Section 9000).

7 (e) To enable an employer to receive a reduction in contribution
8 rate.

9 (f) To enable federal, state, or local government departments
10 or agencies, subject to federal law, to verify or determine the
11 eligibility or entitlement of an applicant for, or a recipient of, public
12 social services provided pursuant to Division 9 (commencing with
13 Section 10000) of the Welfare and Institutions Code, or Part A of
14 Title IV of the Social Security Act, where the verification or
15 determination is directly connected with, and limited to, the
16 administration of public social services.

17 (g) To enable county administrators of general relief or
18 assistance, or their representatives, to determine entitlement to
19 locally provided general relief or assistance, where the
20 determination is directly connected with, and limited to, the
21 administration of general relief or assistance.

22 (h) To enable state or local governmental departments or
23 agencies to seek criminal, civil, or administrative remedies in
24 connection with the unlawful application for, or receipt of, relief
25 provided under Division 9 (commencing with Section 10000) of
26 the Welfare and Institutions Code or to enable the collection of
27 expenditures for medical assistance services pursuant to Part 5
28 (commencing with Section 17000) of Division 9 of the Welfare
29 and Institutions Code.

30 (i) To provide any law enforcement agency with the name,
31 address, telephone number, birth date, social security number,
32 physical description, and names and addresses of present and past
33 employers, of any victim, suspect, missing person, potential
34 witness, or person for whom a felony arrest warrant has been
35 issued, when a request for this information is made by any
36 investigator or peace officer as defined by Sections 830.1 and
37 830.2 of the Penal Code, or by any federal law enforcement officer
38 to whom the Attorney General has delegated authority to enforce
39 federal search warrants, as defined under Sections 60.2 and 60.3
40 of Title 28 of the Code of Federal Regulations, as amended, and

1 when the requesting officer has been designated by the head of
2 the law enforcement agency and requests this information in the
3 course of and as a part of an investigation into the commission of
4 a crime when there is a reasonable suspicion that the crime is a
5 felony and that the information would lead to relevant evidence.
6 The information provided pursuant to this subdivision shall be
7 provided to the extent permitted by federal law and regulations,
8 and to the extent the information is available and accessible within
9 the constraints and configurations of existing department records.
10 Any person who receives any information under this subdivision
11 shall make a written report of the information to the law
12 enforcement agency that employs him or her, for filing under the
13 normal procedures of that agency.

14 (1) This subdivision shall not be construed to authorize the
15 release to any law enforcement agency of a general list identifying
16 individuals applying for or receiving benefits.

17 (2) The department shall maintain records pursuant to this
18 subdivision only for periods required under regulations or statutes
19 enacted for the administration of its programs.

20 (3) This subdivision shall not be construed as limiting the
21 information provided to law enforcement agencies to that pertaining
22 only to applicants for, or recipients of, benefits.

23 (4) The department shall notify all applicants for benefits that
24 release of confidential information from their records will not be
25 protected should there be a felony arrest warrant issued against
26 the applicant or in the event of an investigation by a law
27 enforcement agency into the commission of a felony.

28 (j) To provide public employee retirement systems in California
29 with information relating to the earnings of any person who has
30 applied for or is receiving a disability income, disability allowance,
31 or disability retirement allowance, from a public employee
32 retirement system. The earnings information shall be released only
33 upon written request from the governing board specifying that the
34 person has applied for or is receiving a disability allowance or
35 disability retirement allowance from its retirement system. The
36 request may be made by the chief executive officer of the system
37 or by an employee of the system so authorized and identified by
38 name and title by the chief executive officer in writing.

39 (k) To enable the Division of Labor Standards Enforcement in
40 the Department of Industrial Relations to seek criminal, civil, or

1 administrative remedies in connection with the failure to pay, or
2 the unlawful payment of, wages pursuant to Chapter 1
3 (commencing with Section 200) of Part 1 of Division 2 of, and
4 Chapter 1 (commencing with Section 1720) of Part 7 of Division
5 2 of, the Labor Code.

6 (l) To enable federal, state, or local governmental departments
7 or agencies to administer child support enforcement programs
8 under Title IV of the Social Security Act (42 U.S.C. Sec. 651 et
9 seq.).

10 (m) To provide federal, state, or local governmental departments
11 or agencies with wage and claim information in its possession that
12 will assist those departments and agencies in the administration
13 of the Victims of Crime Program or in the location of victims of
14 crime who, by state mandate or court order, are entitled to
15 restitution that has been or can be recovered.

16 (n) To provide federal, state, or local governmental departments
17 or agencies with information concerning any individuals who are
18 or have been:

19 (1) Directed by state mandate or court order to pay restitution,
20 fines, penalties, assessments, or fees as a result of a violation of
21 law.

22 (2) Delinquent or in default on guaranteed student loans or who
23 owe repayment of funds received through other financial assistance
24 programs administered by those agencies. The information released
25 by the director for the purposes of this paragraph shall not include
26 unemployment insurance benefit information.

27 (o) To provide an authorized governmental agency with any or
28 all relevant information that relates to any specific workers'
29 compensation insurance fraud investigation. The information shall
30 be provided to the extent permitted by federal law and regulations.
31 For the purposes of this subdivision, "authorized governmental
32 agency" means the district attorney of any county, the office of
33 the Attorney General, the Department of Industrial Relations, and
34 the Department of Insurance. An authorized governmental agency
35 may disclose this information to the State Bar, the Medical Board
36 of California, or any other licensing board or department whose
37 licensee is the subject of a workers' compensation insurance fraud
38 investigation. This subdivision shall not prevent any authorized
39 governmental agency from reporting to any board or department
40 the suspected misconduct of any licensee of that body.

1 (p) To enable the Director of the Bureau for Private
2 Postsecondary and Vocational Education, or his or her
3 representatives, to access unemployment insurance quarterly wage
4 data on a case-by-case basis to verify information on school
5 administrators, school staff, and students provided by those schools
6 who are being investigated for possible violations of Chapter 7
7 (commencing with Section 94700) of Part 59 of the Education
8 Code.

9 (q) To provide employment tax information to the tax officials
10 of Mexico, if a reciprocal agreement exists. For purposes of this
11 subdivision, “reciprocal agreement” means a formal agreement to
12 exchange information between national taxing officials of Mexico
13 and taxing authorities of the State Board of Equalization, the
14 Franchise Tax Board, and the Employment Development
15 Department. Furthermore, the reciprocal agreement shall be limited
16 to the exchange of information that is essential for tax
17 administration purposes only. Taxing authorities of the State of
18 California shall be granted tax information only on California
19 residents. Taxing authorities of Mexico shall be granted tax
20 information only on Mexican nationals.

21 (r) To enable city and county planning agencies to develop
22 economic forecasts for planning purposes. The information shall
23 be limited to businesses within the jurisdiction of the city or county
24 whose planning agency is requesting the information, and shall
25 not include information regarding individual employees.

26 (s) To provide the State Department of Developmental Services
27 with wage and employer information that will assist in the
28 collection of moneys owed by the recipient, parent, or any other
29 legally liable individual for services and supports provided pursuant
30 to Chapter 9 (commencing with Section 4775) of Division 4.5 of,
31 and Chapter 2 (commencing with Section 7200) and Chapter 3
32 (commencing with Section 7500) of Division 7 of, the Welfare
33 and Institutions Code.

34 (t) Nothing in this section shall be construed to authorize or
35 permit the use of information obtained in the administration of this
36 code by any private collection agency.

37 (u) The disclosure of the name and address of an individual or
38 business entity that was issued an assessment that included
39 penalties under Section 1128 or 1128.1 shall not be in violation

1 of Section 1094 if the assessment is final. The disclosure may also
2 include any of the following:

3 (1) The total amount of the assessment.

4 (2) The amount of the penalty imposed under Section 1128 or
5 1128.1 that is included in the assessment.

6 (3) The facts that resulted in the charging of the penalty under
7 Section 1128 or 1128.1.

8 (v) To enable the Contractors' State License Board to verify
9 the employment history of an individual applying for licensure
10 pursuant to Section 7068 of the Business and Professions Code.

11 (w) To provide any peace officer with the Division of
12 Investigation in the Department of Consumer Affairs information
13 pursuant to subdivision (i) when the requesting peace officer has
14 been designated by the Chief of the Division of Investigation and
15 requests this information in the course of and as part of an
16 investigation into the commission of a crime or other unlawful act
17 when there is reasonable suspicion to believe that the crime or act
18 may be connected to the information requested and would lead to
19 relevant information regarding the crime or unlawful act.

20 (x) To enable the Labor Commissioner of the Division of Labor
21 Standards Enforcement in the Department of Industrial Relations
22 to identify, pursuant to Section 90.3 of the Labor Code, unlawfully
23 uninsured employers. The information shall be provided to the
24 extent permitted by federal law and regulations.

25 (y) To enable the Chancellor of the California Community
26 Colleges, in accordance with the requirements of Section 84754.5
27 of the Education Code, to obtain quarterly wage data, commencing
28 January 1, 1993, on students who have attended one or more
29 community colleges, to assess the impact of education on the
30 employment and earnings of students, to conduct the annual
31 evaluation of district-level and individual college performance in
32 achieving priority educational outcomes, and to submit the required
33 reports to the Legislature and the Governor. The information shall
34 be provided to the extent permitted by federal statutes and
35 regulations.

36 (z) To enable the Public Employees' Retirement System to seek
37 criminal, civil, or administrative remedies in connection with the
38 unlawful application for, or receipt of, benefits provided under
39 Part 3 (commencing with Section 20000) of Division 5 of Title 2
40 of the Government Code.

1 (aa) *To enable the Office of Statewide Health Planning and*
2 *Development to obtain labor market, workforce, and earnings data*
3 *for the purpose of collecting health care workforce data for the*
4 *health care workforce clearinghouse established pursuant to*
5 *Section 128050 of the Health and Safety Code.*

6 SEC. 3. The Legislature finds and declares that Section 1 of
7 this act, which adds Section 851.5 to the Business and Professions
8 Code, imposes a limitation on the public's right of access to the
9 meetings of public bodies or the writings of public officials and
10 agencies within the meaning of Section 3 of Article I of the
11 California Constitution. Pursuant to that constitutional provision,
12 the Legislature makes the following findings to demonstrate the
13 interest protected by this limitation and the need for protecting
14 that interest:

15 In order to protect the privacy of healing arts licensees, it is
16 necessary to ensure that personally identifiable information
17 submitted by licensees pursuant to this act is protected as
18 confidential.