

AMENDED IN SENATE APRIL 20, 2009

SENATE BILL

No. 43

Introduced by Senator Alquist

January 6, 2009

An act to add Section 851.5 to the Business and Professions Code, *to amend Section 128051 of the Health and Safety Code*, and to amend Section 1095 of the Unemployment Insurance Code, relating to health professions.

LEGISLATIVE COUNSEL'S DIGEST

SB 43, as amended, 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 *only* 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 *and requires the office to work with specified entities to collect that data*. 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. *The bill would specify that personally identifiable information obtained by that office for the health care workforce clearinghouse is confidential and not subject to public inspection.*

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. *Any other use of the*
11 *information collected pursuant to this section is prohibited.*

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

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

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

20 SEC. 2. Section 128051 of the Health and Safety Code is
21 amended to read:

22 128051. (a) The Office of Statewide Health Planning and
23 Development shall work with the Employment Development

Department's Labor Market Information Division, state licensing boards, and state higher education entities to collect, to the extent available, all of the following data:

(a)

(1) The current supply of health care workers, by specialty.

(b)

(2) The geographical distribution of health care workers, by specialty.

(c)

(3) The diversity of the health care workforce, by specialty, including, but not necessarily limited to, data on race, ethnicity, and languages spoken.

(d)

(4) The current and forecasted demand for health care workers, by specialty.

(e)

(5) The educational capacity to produce trained, certified, and licensed health care workers, by specialty and by geographical distribution, including, but not necessarily limited to, the number of educational slots, the number of enrollments, the attrition rate, and wait time to enter the program of study.

(b) Personally identifiable information collected for purposes of this article shall be confidential and not subject to public inspection.

~~SEC. 2.~~

SEC. 3. Section 1095 of the Unemployment Insurance Code is amended to read:

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

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

(b) To properly present a claim for benefits.

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

(d) To furnish an employer or his or her authorized agent with information to enable him or her to fully discharge his or her

1 obligations or safeguard his or her rights under this division or
2 Division 3 (commencing with Section 9000).

3 (e) To enable an employer to receive a reduction in contribution
4 rate.

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

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

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

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

1 felony and that the information would lead to relevant evidence.
2 The information provided pursuant to this subdivision shall be
3 provided to the extent permitted by federal law and regulations,
4 and to the extent the information is available and accessible within
5 the constraints and configurations of existing department records.
6 Any person who receives any information under this subdivision
7 shall make a written report of the information to the law
8 enforcement agency that employs him or her, for filing under the
9 normal procedures of that agency.

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

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

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

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

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

35 (k) To enable the Division of Labor Standards Enforcement in
36 the Department of Industrial Relations to seek criminal, civil, or
37 administrative remedies in connection with the failure to pay, or
38 the unlawful payment of, wages pursuant to Chapter 1
39 (commencing with Section 200) of Part 1 of Division 2 of, and

1 Chapter 1 (commencing with Section 1720) of Part 7 of Division
2 2 of, the Labor Code.

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

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

13 (n) To provide federal, state, or local governmental departments
14 or agencies with information concerning any individuals who are
15 or have been:

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

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

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

38 (p) To enable the Director of the Bureau for Private
39 Postsecondary and Vocational Education, or his or her
40 representatives, to access unemployment insurance quarterly wage

1 data on a case-by-case basis to verify information on school
2 administrators, school staff, and students provided by those schools
3 who are being investigated for possible violations of Chapter 7
4 (commencing with Section 94700) of Part 59 of the Education
5 Code.

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

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

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

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

34 (u) The disclosure of the name and address of an individual or
35 business entity that was issued an assessment that included
36 penalties under Section 1128 or 1128.1 shall not be in violation
37 of Section 1094 if the assessment is final. The disclosure may also
38 include any of the following:

39 (1) The total amount of the assessment.

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

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

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

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

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

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

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

38 (aa) To enable the Office of Statewide Health Planning and
39 Development to obtain labor market, workforce, and earnings data
40 for the purpose of collecting health care workforce data for the

1 health care workforce clearinghouse established pursuant to Section
2 128050 of the Health and Safety Code. *Personally identifiable*
3 *information obtained by the Office of Statewide Health Planning*
4 *and Development pursuant to this subdivision shall be confidential*
5 *and not subject to public inspection.*

6 ~~SEC. 3.~~

7 ~~SEC. 4.~~ The Legislature finds and declares that ~~Section 1 of~~
8 ~~this act, which adds Section 851.5 to the Business and Professions~~
9 ~~Code, imposes Sections 1, 2, and 3 of this act impose~~ a limitation
10 on the public's right of access to the meetings of public bodies or
11 the writings of public officials and agencies within the meaning
12 of Section 3 of Article I of the California Constitution. Pursuant
13 to that constitutional provision, the Legislature makes the following
14 findings to demonstrate the interest protected by this limitation
15 and the need for protecting that interest:

16 In order to protect the privacy of ~~healing arts licensees~~ *individual*
17 *members of the health care workforce*, it is necessary to ensure
18 that personally identifiable information ~~submitted by licensees~~
19 ~~pursuant to this act regarding those individuals~~ is protected as
20 confidential.