

BILL NUMBER: AB 655 CHAPTERED
BILL TEXT

CHAPTER 380
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INTRODUCED BY Assembly Member Hayashi

FEBRUARY 16, 2011

An act to add Section 809.08 to the Business and Professions Code,
relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 655, Hayashi. Healing arts: peer review.

Existing law provides for the professional review of specified healing arts licentiates through a peer review process conducted by peer review bodies, as defined.

This bill would require a peer review body to respond to the request of another peer review body and produce relevant peer review information about a licentiate that was subject to peer review by the responding peer review body for a medical disciplinary cause or reason. The bill would require the responding peer review body to determine the manner by which to produce the information, as specified. The bill would provide that the information produced pursuant to this provision is not subject to discovery, as specified, and may be used only for peer review purposes. The bill would require that all relevant information produced be made available to the licentiate by the requesting peer review body. The bill would require the requesting peer review body, upon request, to sign a specified sharing agreement with the responding peer review body, and to indemnify the responding peer review body for certain claims relating to the improper release or disclosure of information. The bill would require the licentiate under review to, upon request, release the responding peer review body from liability for the disclosure of information. The bill would specify that the responding peer review body is not obligated to produce information unless certain conditions are met.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 809.08 is added to the Business and Professions Code, to read:

809.08. (a) The Legislature hereby finds and declares that the sharing of information between peer review bodies is essential to protect the public health.

(b) Upon receipt of reasonable processing costs, a peer review body shall respond to the request of another peer review body and produce relevant peer review information about a licentiate that was subject to peer review by the responding peer review body for a

medical disciplinary cause or reason. The responding peer review body shall determine the manner by which to produce such information and may elect to do so through (1) a written summary of relevant peer review information or (2) a relevant peer review record. Relevant peer review information or peer review record includes, but is not limited to, allegations and findings, explanatory or exculpatory information submitted by the licentiate, any conclusions made, any actions taken, and the reasons for those actions, to the extent not otherwise prohibited by applicable federal or state law. The information shall not identify any person except the licentiate. The information produced by a peer review body pursuant to this section shall be used solely for peer review purposes and shall not be subject to discovery to the extent provided in Sections 1156.1 and 1157 of the Evidence Code and any other applicable provisions of law. All relevant peer review information produced pursuant to this section shall be made available to the licentiate by the requesting peer review body in accordance with Section 809.2.

(c) The responding peer review body acting in good faith is not subject to civil or criminal liability for providing information to the requesting peer review body pursuant to this section. The peer review body responding to the request shall be entitled to all confidentiality protections and privileges provided by law as to the information disclosed pursuant to this section. Prior to the release of any peer review information pursuant to this section, the requesting peer review body shall, upon request, sign a mutually agreeable peer review sharing agreement with the responding peer review body, and shall also indemnify the responding peer review body for any and all claims, demands, liabilities, losses, damages, costs, and expenses, including reasonable attorney's fees, resulting in any manner, directly or indirectly, from the receiving peer review body's improper release or disclosure of information shared pursuant to this section.

(d) Prior to the release of any peer review information pursuant to this section, the licentiate under review by the peer review body requesting information pursuant to this section shall, upon request, release the responding peer review body, its members, and the health care entity for which the responding peer review body conducts peer reviews, from liability for the disclosure of information in compliance with this section.

(e) The responding peer review body is not obligated to produce the relevant peer review information pursuant to this section unless both of the following conditions are met:

(1) The licentiate provides a release, as described in subdivision (d), that is acceptable to the responding peer review body.

(2) The requesting peer review body signs a mutually agreeable peer review sharing agreement, as described in subdivision (c), with the responding peer review body.