AB 2699 (Bass)- Healing Arts: Licensure Exemption

Introduced February 19, 2010, Chaptered September 24, 2010

This bill exempts, until January 1, 2014, from state licensure specified health care practitioners who are licensed or certified in other states and who provide health care services on a voluntary basis to uninsured or underinsured persons in California, as specified. According to the Senate Rules Committee Analysis, specifically, this bill:

1) Exempts from state licensure, until January 2, 2014, specified health care practitioners that are licensed or certified in good standing in another state, district, territory of the United States and who offer or provide health care services in California under the following requirements:

Prior to providing those services, he or she:

1) Obtains authorization from the board to participate in the sponsored event. *This bill requires the Board to approve or deny a request for authorization to provide these services within 20 days of receipt of the request.*
2) Satisfies the following requirements:
   - The health care practitioner has not committed any act or been convicted of a crime constituting grounds for denial of licensure or registration, and is in good standing in each state in which he or she is licensed or certified.
   - The health care practitioner has the appropriate education and experience to participate in a sponsored event, as determined by the board.
   - The health care practitioner agrees to comply with all applicable practice requirements.
   - Submits to the board, on a form prescribed by the board, a request for authorization to practice without a license, and pays a nominal fee, in an amount determined by the board by regulation, to cover the cost of developing the authorization process and processing the request.

The care is provided under all of the following circumstances:

- To uninsured or underinsured persons.
- On a short-term voluntary basis, not to exceed a 10-calander-day period per sponsored event.
- In association with a sponsoring entity that complies with specified requirements.
- Without charge to the recipient or to a third party on behalf of the recipient.

Allows the Board to deny a health care practitioner authorization to practice without a license if the health care practitioner fails to comply with the requirements of this section or for any act that would be grounds for denial of an application for licensure.

2) Requires the sponsoring entity seeking to provide, or arrange for the provision of, health care services to do both of the following:

A) Register with each applicable board for which an out of state health care practitioner is participating in the sponsored event by completing a registration form that includes the name of the sponsoring authority, its officers or organization officials, specified contact information for the sponsoring entity and its officers, and, any additional information required by the licensing board.

B) Provide the information required above to the county health department of the county in which the health care services will be provided, along with any additional information that may be required by that department.

3) Requires the sponsoring entity to notify in writing the licensing board and the county health department of any change to the information required within 30 calendar days of the change.

4) Requires the sponsoring entity additionally do the following:

A) Within 15 calendar days of the provision of health care services, it must file a report with the licensing board and the county health department on the date, place, type, and general description of the care provided, along with a listing of the health care practitioners who participated in providing that care.

B) Maintain a list of health care practitioners associated with the provision of health care services under this bill. Requires the sponsoring entity to maintain a copy of each health care practitioner's current license or certification and shall require each health care practitioner to attest in writing that his or her license or certificate is not suspended or revoked pursuant to disciplinary proceedings in any jurisdiction. The sponsoring entity shall maintain these records for a period of at least five years following the provision of health care services and shall, upon request, furnish those records to the licensing board or any county health department.

5) Prohibits a contract of liability insurance issued, amended, or renewed in this state on or after January 1, 2011, from excluding coverage of a health care practitioner or a sponsoring entity that provides, or arranges for the provision of, health care services under this bill, provided that the practitioner or entity complies with the requirements of this bill.

6) States that the exemption from licensure for health care practitioners shall not be construed to authorize to a health care practitioner to render care outside the scope of practice authorized by his or her license or certificate.

7) Authorizes the board to terminate authorization for a health care practitioner to provide health care services pursuant to this bill for failure to comply with the requirements of this bill.

8) Requires the board provide both the sponsoring entity and the health care practitioner with a written notice of termination including the basis for that termination. The health care practitioner may, within 30 days after the date of the receipt of notice of termination, file a written appeal to the board. The appeal shall include any documentation the health care practitioner wishes to present to the board.

9) Prohibits a health care practitioner whose authorization to provide health care services has been terminated from providing health care services unless and until a subsequent request for authorization has been approved by the board. A health care practitioner who provides health care services in violation is deemed to be practicing health care in violation of the law and be subject to any applicable administrative, civil, or criminal fines, penalties, and other sanctions.

10) Specifies the provisions of this bill are severable.

11) Defines the following terms: board, sponsoring entity, and uninsured or underinsured person.

Background

Licensure Requirements - Generally, health care practitioners, including physician and surgeons, osteopathic physicians, dentists, physician assistants, nurses, and dental hygienists must be licensed in California to practice in the state. There are limited

exemptions to this general rule. For example, health care practitioners who provide care during a state of emergency upon request by the Director of Emergency Medical Services Authority are exempt from licensure. Additionally, a physician and surgeon who is practicing in another state may be exempted from licensure when he or she has been invited by the United States Olympic Committee (Committee) to provide medical services in in-state events sanctioned by the Committee, and the services provided are limited to those sanctioned by the Committee, as specified. Additionally, licensing boards allow health care practitioners who are licensed or certified in other states to practice in California under specified requirements.

Free Health Clinics - Remote Area Medical (RAM) Volunteer Corps, based in Tennessee, is a non-profit organization founded in 1985, and has staged hundreds of medical clinics both in the United States and worldwide. In August 2009, RAM conducted an eight-day health event in Los Angeles County. Volunteer health care practitioners, such as doctors, nurses, dentists, chiropractors and optometrists, provided various medical services to more than 6,300 uninsured and underinsured residents of the county. On April 27 to May 3, 2010, RAM conducted its second free health clinic in Los Angeles. Thousands of people sought and received treatments but many people had to be turned away. Organizers of the event indicated that a shortage of volunteer health care practitioners hampered their effort, and if existing law allowed for certain exemption for health care practitioners at these types of health clinic events, additional medical volunteers could have been recruited.

Existing Law

Business and Professions Code Section 2912 currently provides, "Nothing in this chapter shall be construed to restrict or prevent a person who is licensed as a psychologist at the doctoral level in another state or territory of the United States or in Canada from offering psychological services in this state for a period not to exceed 30 days in any calendar year."

Assembly Bill No. 2699

CHAPTER 270

An act to amend Section 900 of, and to add and repeal Section 901 of, the Business and Professions Code, relating to healing arts.

[Approved by Governor September 23, 2010. Filed with Secretary of State September 24, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2699, Bass. Healing arts: licensure exemption.

Existing law provides for the licensure and regulation of various healing arts practitioners by boards within the Department of Consumer Affairs. Existing law provides an exemption from these requirements for a health care practitioner licensed in another state who offers or provides health care for which he or she is licensed during a state of emergency, as defined, and upon request of the Director of the Emergency Medical Services Authority, as specified.

This bill would also provide, until January 1, 2014, an exemption from the licensure and regulation requirements for a health care practitioner, as defined, licensed or certified in good standing in another state or states, who offers or provides health care services for which he or she is licensed or certified through a sponsored event, as defined, (1) to uninsured or underinsured persons, (2) on a short-term voluntary basis, (3) in association with a sponsoring entity that registers with the applicable healing arts board, as defined, and provides specified information to the county health department of the county in which the health care services will be provided, and (4) without charge to the recipient or a 3rd party on behalf of the recipient, as specified. The bill would also require an exempt health care practitioner to obtain prior authorization to provide these services from the applicable licensing board, as defined, and to satisfy other specified requirements, including payment of a fee as determined by the applicable licensing board. The bill would require the applicable licensing board to notify the sponsoring entity, as defined, of the sponsored event whether the board approves or denies a request for authorization to provide these services within 20 days of receipt of the request. The bill would also prohibit a contract of liability insurance issued, amended, or renewed on or after January 1, 2011, from excluding coverage of these practitioners or a sponsoring entity for providing care under these provisions.

Because this bill would expand the definition of certain crimes, the bill would create a state-mandated local program.

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.

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

SECTION 1. Section 900 of the Business and Professions Code is amended to read:

900. (a) Nothing in this division applies to a health care practitioner licensed in another state or territory of the United States who offers or provides health care for which he or she is licensed, if the health care is provided only during a state of emergency as defined in subdivision (b) of Section 8558 of the Government Code, which emergency overwhelms the response capabilities of California health care practitioners and only upon the request of the Director of the Emergency Medical Services Authority.

(b) The director shall be the medical control and shall designate the licensure and specialty health care practitioners required for the specific emergency and shall designate the areas to which they may be deployed.

(c) Health care practitioners shall provide, upon request, a valid copy of a professional license and a photograph identification issued by the state in which the practitioner holds licensure before being deployed by the director.

(d) Health care practitioners deployed pursuant to this chapter shall provide the appropriate California licensing authority with verification of licensure upon request.

(e) Health care practitioners providing health care pursuant to this chapter shall have immunity from liability for services rendered as specified in Section 8659 of the Government Code.

(f) For the purposes of this section, "health care practitioner" means any person who engages in acts which are the subject of licensure or regulation under this division or under any initiative act referred to in this division.

(g) For purposes of this section, "director" means the Director of the Emergency Medical Services Authority who shall have the powers specified in Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

SEC. 2. Section 901 is added to the Business and Professions Code, to read:

901. (a) For purposes of this section, the following provisions apply:

(1) "Board" means the applicable healing arts board, under this division or an initiative act referred to in this division, responsible for the licensure or regulation in this state of the respective health care practitioners.

(2) "Health care practitioner" means any person who engages in acts that are subject to licensure or regulation under this division or under any initiative act referred to in this division.

(3) "Sponsored event" means an event, not to exceed 10 calendar days, administered by either a sponsoring entity or a local government, or both, through which health care is provided to the public without compensation to the health care practitioner.

(4) "Sponsoring entity" means a nonprofit organization organized pursuant to Section 501(c)(3) of the Internal Revenue Code or a community-based organization.

(5) "Uninsured or underinsured person" means a person who does not have health care coverage, including private coverage or coverage through a program funded in whole or in part by a governmental entity, or a person who has health care coverage, but the coverage is not adequate to obtain those health care services offered by the health care practitioner under this section.

(b) A health care practitioner licensed or certified in good standing in another state, district, or territory of the United States who offers or provides health care services for which he or she is licensed or certified is exempt from the requirement for licensure if all of the following requirements are met:

(1) Prior to providing those services, he or she:

(A) Obtains authorization from the board to participate in the sponsored event after submitting to the board a copy of his or her valid license or certificate from each state in which he or she holds licensure or certification and a photographic identification issued by one of the states in which he or she holds licensure or certification. The board shall notify the sponsoring entity, within 20 calendar days of receiving a request for authorization, whether that request is approved or denied, provided that, if the board receives a request for authorization less than 20 days prior to the date of the sponsored event, the board shall make reasonable efforts to notify the sponsoring entity whether that request is approved or denied prior to the date of that sponsored event.

(B) Satisfies the following requirements:

(i) The health care practitioner has not committed any act or been convicted of a crime constituting grounds for denial of licensure or registration under Section 480 and is in good standing in each state in which he or she holds licensure or certification.

(ii) The health care practitioner has the appropriate education and experience to participate in a sponsored event, as determined by the board.

(iii) The health care practitioner shall agree to comply with all applicable practice requirements set forth in this division and the regulations adopted pursuant to this division.

(C) Submits to the board, on a form prescribed by the board, a request for authorization to practice without a license, and pays a fee, in an amount determined by the board by regulation, which shall be available, upon appropriation, to cover the cost of developing the authorization process and processing the request.

(2) The services are provided under all of the following circumstances:

(A) To uninsured or underinsured persons.

(B) On a short-term voluntary basis, not to exceed a 10-calendar-day period per sponsored event.

(C) In association with a sponsoring entity that complies with subdivision (c).

(D) Without charge to the recipient or to a third party on behalf of the recipient.

(c) The board may deny a health care practitioner authorization to practice without a license if the health care practitioner fails to comply with the requirements of this section or for any act that would be grounds for denial of an application for licensure.

(d) A sponsoring entity seeking to provide, or arrange for the provision of, health care services under this section shall do both of the following:

(1) Register with each applicable board under this division for which an out-of-state health care practitioner is participating in the sponsored event by completing a registration form that shall include all of the following:

(A) The name of the sponsoring entity.

(B) The name of the principal individual or individuals who are the officers or organizational officials responsible for the operation of the sponsoring entity.

(C) The address, including street, city, ZIP Code, and county, of the sponsoring entity's principal office and each individual listed pursuant to subparagraph (B).

(D) The telephone number for the principal office of the sponsoring entity and each individual listed pursuant to subparagraph (B).

(E) Any additional information required by the board.

(2) Provide the information listed in paragraph (1) to the county health department of the county in which the health care services will be provided, along with any additional information that may be required by that department.

(e) The sponsoring entity shall notify the board and the county health department described in paragraph (2) of subdivision (d) in writing of any change to the information required under subdivision (d) within 30 calendar days of the change.

(f) Within 15 calendar days of the provision of health care services pursuant to this section, the sponsoring entity shall file a report with the board and the county health department of the county in which the health care services were provided. This report shall contain the date, place, type, and general description of the care provided, along with a listing of the health care practitioners who participated in providing that care.

(g) The sponsoring entity shall maintain a list of health care practitioners associated with the provision of health care services under this section. The sponsoring entity shall maintain a copy of each health care practitioner's current license or certification and shall require each health care practitioner to attest in writing that his or her license or certificate is not suspended or revoked pursuant to disciplinary proceedings in any jurisdiction. The sponsoring entity shall maintain these records for a period of at least five years following the provision of health care services under this section and shall, upon request, furnish those records to the board or any county health department.

(h) A contract of liability insurance issued, amended, or renewed in this state on or after January 1, 2011, shall not exclude coverage of a health care

practitioner or a sponsoring entity that provides, or arranges for the provision of, health care services under this section, provided that the practitioner or entity complies with this section.

(i) Subdivision (b) shall not be construed to authorize a health care practitioner to render care outside the scope of practice authorized by his or her license or certificate or this division.

(j) (1) The board may terminate authorization for a health care practitioner to provide health care services pursuant to this section for failure to comply with this section, any applicable practice requirement set forth in this division, any regulations adopted pursuant to this division, or for any act that would be grounds for discipline if done by a licensee of that board.

(2) The board shall provide both the sponsoring entity and the health care practitioner with a written notice of termination including the basis for that termination. The health care practitioner may, within 30 days after the date of the receipt of notice of termination, file a written appeal to the board. The appeal shall include any documentation the health care practitioner wishes to present to the board.

(3) A health care practitioner whose authorization to provide health care services pursuant to this section has been terminated shall not provide health care services pursuant to this section unless and until a subsequent request for authorization has been approved by the board. A health care practitioner who provides health care services in violation of this paragraph shall be deemed to be practicing health care in violation of the applicable provisions of this division, and be subject to any applicable administrative, civil, or criminal fines, penalties, and other sanctions provided in this division.

(k) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(*l*) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

O