



STATE OF CALIFORNIA
CALIFORNIA SENIOR LEGISLATURE

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LEGISLATIVE UPDATE
AUGUST 19, 2005
CSL STATE PRIORITIES

AB 205 Ruskin Denture identification

Existing law, the Dental Practice Act, regulates the practice of dentistry by the Dental Board of California in the Department of Consumer Affairs. Under existing law, a complete upper or lower denture fabricated by a licensed dentist, or fabricated pursuant to the work order, is required to be marked with the patient's name or social security number, unless the patient objects. This bill would instead require that the dentures be marked with the patient's name unless the patient objects. This bill would also require the dentist to inform the patient that the markings are to be used for identification only and that the patient has the option whether the dentures are marked.

STATUS: Assembly Concurrence, 8/22/05
 Passed Senate Floor, 8/18/05
 Passed Senate Bus., Prof. & Economic Development Committee, 6/20/05
 Passed Assembly Floor, 4/18/05
 Passed Assembly Business & Professions Committee, as amended, 4/12/05

CSL Position: Sponsor CSL Proposal # SP 4 CSL Author: Dennison

AB 288 Mountjoy Pharmacies: prescription containers: labels

The existing Pharmacy Law provides for the licensing, regulation, and enforcement of the practice of pharmacy by the California State Board of Pharmacy. The Pharmacy Law prohibits a pharmacist from dispensing a prescription except in a container that meets the requirements of state and federal law and is correctly labeled with, among other things, the condition for which the drug was prescribed if requested by the patient and if the condition is indicated on the prescription. This law contains other related provisions and other existing laws.

This bill would eliminate the requirement of the labeling requirement pertaining to the condition for which the drug was prescribed, and would instead require the container to be labeled with the intended purpose of the drug, unless the physician who prescribes the drug or the patient, receiving the drug specifically requests that the information be omitted. This bill contains other related provisions and other existing law.

STATUS: Assembly Member Mountjoy agreed to allow Assembly Member Karnette to carry bill as AB 657 (See next page)

CSL Position: Sponsor CSL Proposal # AP 4 CSL Author: Gould

AB 249 DeVore & Walters Personal Income Taxes: Tax Forms

The Personal Income Tax Law, which is administered by the Franchise Tax Board, imposes taxes upon the taxable income of specified persons. Existing law authorizes a taxpayer whose total income, as defined, is less than a specified amount to utilize Form 540 2EZ, as prepared by the Franchise Tax Board. The definition of "total income," for purposes of determining a taxpayer's eligibility to utilize Form 540 2EZ, does not include income derived from capital gains.

This bill would require the Legislative Analyst Office, in conjunction with the Franchise Tax Board to conduct a study regarding the taxpayers' usage of Form 540 2EZ, as specified, and to report to the Legislature, no later than January 1, 2008, the results of that study.

STATUS: To enrollment, 8/18/05
Passed Senate Floor 8/15/05
Passed Senate Revenue and Taxation Committee, 6/23/05
Passed Assembly Appropriations Committee, as amended, 4/18/05
Passed Assembly Revenue and Taxation Committee, 3/14/05

CSL Position: Co-Sponsor CSL Proposal # AP 35 (2000) CSL Author: Erman & Boucher

AB 609 Lieber and Ruskin Public guardian: adult protective Services**

Existing law authorizes the public guardian, upon receipt of a declaration from a peace officer indicating that an elder person is unable to manage his or her financial resources or to resist fraud or undue influence, among other specified factors, to rely on that information and take immediate possession and control of the property of the elder person. Under existing law, a declaration prepared in accordance with those provisions is required to be signed by both a peace officer and a supervisor from the county's adult protective services agency. This bill would provide that a declaration also may be signed by a designated representative of the county's adult protective services agency. The bill would also require that declaration to be transmitted to the appropriate financial institution within 24 hours of it being signed. This bill contains other related law and provisions.

STATUS: Senate Judiciary, 6/14/05
Passed Assembly Floor, 4/21/05
Passed Assembly Judiciary, as amended, 4/5/05

CSL Position: Sponsor CSL Proposal # AP 1 CSL Author: Edgar

**** AB Lieber Agnews Developmental Center Closure
609**

An act to add Section 44743 to the Welfare and Institutions Code, Relating to developmental services.

AB 615 Vargas Hearing aids: over-the-counter sales

Under existing law, the Hearing Aid Dispensers Licensing Law, the Hearing Aid Dispensers Bureau licenses and regulates the practice of fitting and selling hearing aids, and makes a violation of the act a misdemeanor. Under that law, a hearing aid is required to be dispensed by a licensed hearing aid dispenser. This bill contains other related provisions and other law. This bill would authorize the over-the-counter sale of hearing aid devices if consistent with federal law.

STATUS: Assembly Health Committee, 4/12/05. Hearing cancelled at the request of the author.

CSL Position: Sponsor CSL Proposal # AP 7 CSL Author: Lucero

AB 657 Karnette Pharmacies: prescription containers: labels

The existing Pharmacy Law makes the California State Board of Pharmacy responsible for the regulation, of the practice of pharmacy. The Pharmacy Law prohibits a pharmacist from dispensing a prescription except in a container that meets the requirements of state and federal law and is correctly labeled with, among other things, the condition for which the drug was prescribed if requested by the patient and if the condition is indicated on the prescription.

This bill would eliminate the requirement of the labeling requirement pertaining to the condition for which the drug was prescribed, and would instead require the container to be labeled with the intended purpose, as defined, of the drug, as set forth on the prescription, and would require that the purpose be listed on the prescription. The bill would require a person who is authorized to write or issue a prescription to ask the patient or his or her authorized representative whether to indicate the intended purpose of the prescription on the prescription's label. This bill contains other related provisions and other existing law.

STATUS: Senate Bus., Prof., & Econ. Development
Passed Assembly Floor, 5/19/05
Passed Assembly Appropriations Committee, Do-Pass as amended, 5/4/05
Passed Assembly Health Committee, 4/20/05

CSL Position: Sponsor CSL Proposal # AP 4 CSL Author: Gould

AB 778 Mullin Auto insurance: in-home supportive services

Existing law generally regulates auto insurance. Existing law prohibits an auto liability insurance policy from containing specified provisions. This bill would prohibit an auto liability policy from containing any provision that expressly or impliedly excludes from coverage under the policy the

operation or use of an insured motor vehicle by the named insured in the performance of any in-home supportive services, as described The bill would allow an insurer to consider, for rating

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purposes, the number of miles driven in the provision of in-home supportive services if that number exceeds 2,000 miles per year.

STATUS: Senate inactive file, 7/1/05
Passed Senate Banking, Finance, and Insurance Committee, 6/21/05
Passed Assembly Floor, 5/16/05
Passed Assembly Insurance Committee, as amended, 5/3/05

CSL Position: Sponsor CSL Proposal # AP 3 CSL Author: Young, L.

AB 1605 Wolk and Berg Elder and Dependent adult abuse

Existing law, the Elder Abuse and Dependent Adult Civil Protection Act, establishes procedures for the reporting, investigation, and prosecution of elder and dependent adult abuse. These procedures require persons, defined as mandated reporters, to report known or suspected instances of elder or dependent adult abuse. Under existing law, care custodians of elder or dependent adults and local law enforcement agencies are mandated reporters. A violation of the reporting requirements by a mandated reporter is a misdemeanor.

This bill would include within these reporting requirements mandated reporters of suspected financial abuse, as defined, and would, with certain exceptions, make the related misdemeanor provisions applicable to mandated reporters of suspected financial elder or dependent adult abuse, as defined, thereby imposing a state-mandated local program by changing the definition of a crime. This bill contains other provisions and other law.

STATUS: Assembly In Active File
Passed Assembly Public Safety Committee
Passed Assembly Aging and LTC Committee, 4/27/05

CSL Position: Sponsor CSL Proposal # AP 30 (2000) CSL Author: Karr,
Goldman, Kirueshkin
and Mannia

ACR 8 Dymally Relative to Elder & Dependent Adult Abuse Awareness Month

This measure would proclaim the month of May this year and every year thereafter as Elder and Dependent Adult Abuse Awareness Month.

STATUS: Chaptered by Secretary of State – Resolution Chapter 28, Statutes of 2005

CSL Position: Sponsor CSL Proposal # AP 14 CSL Author: Karr

SB 209 Alquist Stroke education

Existing law establishes the Heart Disease and Stroke Prevention Task Force within the State Department of Health Services and requires the task force to create a heart disease and stroke prevention and treatment state master plan and submit the plan to the Legislature, the Governor, and the department by November 1, 2005. These provisions become inoperative March 2 2006, and are repealed January 1, 2007.

This bill would require the State Department of Health Services to implement a stroke education campaign.

STATUS: Senate Appropriations – Suspense File
Passed Senate Health Committee 4/27/05

CSL Position: Sponsor CSL Proposal # AP 6 CSL Author: Kim-Selby

SB 374 Alquist Residential care facilities for the elderly : evaluations

Existing law requires the State Department of Social Services to visit residential care facilities for the elderly as often as necessary to ensure the quality of care provided, but not less than once every 5 years. The department is required to conduct an annual unannounced visit to a facility when its license is on probation, the compliance plan or a condition of federal funding mandates annual visits, an accusation against a licensee is pending, or to verify that a person who has been ordered out of the facility by the department is no longer there. With all other residential care facilities for the elderly, the department is required to conduct an annual unannounced visit to no less than 10%. This bill would require the department to make an unannounced visit at least every 2 years to a residential care facility for the elderly not subject to annual visits.

STATUS: Senate Appropriations Committee – Suspense file
Passed Senate Human Services Committee, 4/12/05

CSL Position: Sponsor CSL Proposal # AP 16/SP 7 CSL Authors: Lacey/Hopkins

SB 397 Escutia Elder death review teams

Existing law authorizes counties to establish an interagency elder death team to assist local agencies in identifying and reviewing suspicious elder deaths and facilitating communication among persons who perform autopsies and the various persons and agencies involved in elder abuse or neglect cases. This bill would require every skilled nursing facility and residential care facility within a county that has a county elder death review team to notify, as specified, the chair or chair

designee of the team via fax or e-mail whenever there is a death of an elderly resident at the facility.
This bill contains other provisions and other law.

STATUS: Assembly Health, 6/28/05, failed passage in committee. Reconsideration granted.
Passed Senate Floor, 5/23/05
Passed Senate Health Committee, 4/13/05

CSL Position: Sponsor CSL Proposal # SP 10 (2004) CSL Author: Steir

SB 1018 Simitian Elder and Dependent adult abuse

An act to amend, repeal, and add Section 7480 of the Government Code, and to amend, repeal, and add Sections 15634, 15640, and 15655.5 of, and to add and repeal Section 15630.1 of, the Welfare and Institutions Code, relating to elder and dependent adult abuse.

Existing law provides for the confidentiality of financial records but does not prohibit various state and local officers and agencies from requesting information from an office or branch of a financial institution and the office or branch from responding to the request, as to whether a person has an account or accounts at that office or branch and if so, any identifying numbers of the account or accounts. This bill, from January 1, 2007, to January 1, 2013, inclusive, would provide that a county adult protective services office and a long-term care ombudsman when investigating the financial abuse of an elder or dependent adult is similarly not prohibited from requesting financial information and the office or branch is not prohibited from responding to the request. Existing law, the Elder Abuse and Dependent Adult Civil Protection Act, establishes procedures for the reporting, investigation, and prosecution of elder and dependent adult abuse. These procedures require persons, defined as mandated reporters, to report known or suspected instances of elder or dependent adult abuse. Under existing law, care custodians of elder or dependent adults and local law enforcement agencies are mandated reporters. A violation of the reporting requirements by a mandated reporter is a misdemeanor. This bill, from January 1, 2007, to January 1, 2013, inclusive, would include within these reporting requirements mandated reporters of suspected financial abuse, as defined, and would, with certain exceptions, make failure to comply with these requirements subject to a civil penalty. This bill contains other provisions and other law.

STATUS: To enrollment, 8/17/05
Senate concurs in Assembly Amendments, 8/15/05
Passed Assembly Floor, 7/13/05
Passed Assembly Judiciary Committee, 7/7/05
Passed Assembly Aging & Long Term Care Committee, 6/28/05
Passed Senate, 5/26/05
Passed Senate Judiciary Committee, 5/3/05
Passed Senate Public Safety Committee, 4/19/05

CSL Position: Sponsor CSL Proposal # AP 30 (2000) CSL Author: Karr,

Legislation Supported by CSL

AB 916 Canciamilla Elder abuse

Existing law proscribes various crimes committed against an elder or dependent adult when the person knows or reasonably should know that the victim is an elder or dependent adult, including violating any provision of law proscribing theft, embezzlement, forgery, fraud, or identity theft, with respect to the personal identifying information or property of an elder or dependent adult and provides that this crime is punishable by imprisonment in a county jail for a period not exceeding one year, or in the state prison for 2, 3, or 4 years when the money, labor, goods, services, or real or personal property taken or obtained is of a value exceeding \$400.

This bill would provide that any person who violates these provisions is punishable by imprisonment in *the* state prison for an additional 1, 2, 3, 4 or 5 years if the victim's loss exceeds \$50,000, \$150,000, \$500,000, \$1,000,000, or \$2,500,000, respectively.

STATUS: Senate Appropriations Committee – Suspense file
Passed Senate Public Safety Committee
Passed Assembly Floor, 5/27/05
Passed Assembly Appropriations Committee, 5/25/05
Passed Assembly Public Safety Committee, 5/3/05

SB 137 Ducheny, Dunn Common interest development: assessments & Figueroa

The Davis-Stirling Common Interest Development Act defines and regulates common interest developments and authorizes the association that manages the development to levy assessments to fulfill its obligations. The act provides that a regular or special assessment of the association, late charges, reasonable costs of collection, attorney's fees, and interest, as specified, are a debt of the owner of the separate interest at the time the assessment or other sums are levied, and are a lien on the owner's separate interest when the association records a specified document and follows a specified process.

The act permits the association to enforce the lien in any manner permitted by law including a sale by a trustee, also known as non-judicial foreclosure. The act authorizes an owner of a separate interest in a common interest development to pay assessments that are in dispute in full under protest. Existing law, the right of redemption, permits a judgment debtor, as defined, to redeem his or her real property, as specified, after judicial foreclosure only if the decree of foreclosure finds that a deficiency judgment may be ordered against the debtor. This bill contains other provisions and other law.

STATUS: Assembly Floor
Passed Assembly Appropriations, as amended, 8/17/05
Passed Assembly Committee on Housing & Community Development
Passed Judiciary Committee

SB 141 Soto Residential care facilities: preadmission fee refunds

Existing law regulates the licensure and operation of residential care facilities for the elderly, that a licensee of a residential care facility for the elderly, if the licensee charges a preadmission fee, provide the applicant or his or her representative with a written general statement describing costs associated with the preadmission fee charges and stating whether or not the preadmission fee is refundable. If the preadmission fee or some portion thereof is refundable, existing law requires the statement to describe the conditions for the refund. A violation of the provisions relating to the licensure or operation of a residential care facility for the elderly is a crime.

This bill would provide that if the applicant decides not to enter the facility prior to the facility's completion of a preadmission appraisal or if the facility fails to provide full written disclosure of the preadmission fee charges and refund conditions, the applicant or the applicant's representative would be entitled to a refund of 100% of the preadmission fee. It would also require a preadmission fee in excess of \$500 to be refundable and would require the licensee to provide the applicant or his or her representative with a written statement, stating that the preadmission fee is refundable and describing the conditions for the refund. Because a violation of this bills provisions would be a crime under existing law. This bill contains other provisions and other law.

STATUS: Assembly Floor
Passed Assembly Appropriations Committee, as amended, 6/29/05
Passed Assembly Human Services Committee, 6/14/05
Passed Senate Floor, 5/9/05
Passed Senate Human Services Committee, as amended, 4/12/05

SB 244 Romero Continuing care retirement communities

Existing law provides for the regulation by the State Department of Social Services of activities relating to continuing care contracts that govern care provided to an elderly resident in a continuing care retirement community for the duration of the resident s life or a term in excess of one year. Existing law sets forth particular rights to which a resident of a continuing care retirement community is entitled, in addition to any otherwise applicable civil or legal rights, benefits, or privileges. These rights include, among others, the right to live in an attractive, safe, and well maintained physical environment, and the right to organize and participate freely in the operation of resident associations. Existing law designates the contents of a continuing care contract, including the conditions under which a resident of a continuing care retirement community may be voluntarily or involuntarily transferred from his or her designated living unit.

This bill would revise and expand the rights of continuing care retirement community residents to include those rights afforded to residents of residential care facilities for the elderly, and to include

the right to manage their own financial affairs and the right to be free from pressure from the care provider to make designated purchases or contributions for the benefit of the facility. The bill would give residents the right to file complaints with the Continuing Care Contracts Branch of the department, and would require the facility to inform residents of, and to post information relating to, the exercise of that right. This bill would also expand and revise the contents of continuing care contracts, relating to the criteria for resident transfers, to include notice provisions and the right of a resident to have a transfer reviewed by the Continuing Care Contracts Branch, and to seek the assistance of the local long-term care ombudsperson. This bill would require the contract to include a statement of billing practices, procedures, and guidelines, and would require a minimum of 21 days between the billing date and the payment due date. The bill would also limit the circumstances under which a provider would be entitled to impose a late payment charge. This bill contains other provisions and other law.

STATUS: Assembly Appropriations – Suspense File
Passed Assembly Human Services Committee, 6/28/05
Passed Senate Floor, 5/2/05
Passed Senate Appropriations Committee, 4/25/05
Passed Senate Human Services Committee, as amended, 4/13/05

Legislation Opposed by CSL

AB 1664 Gordon Elder abuse reporting

Existing law requires certain mandated reporters to report incidents of abuse or incidents in which he or she has been told of abuse of an elder or dependent adult. Existing law authorizes nonmandated reporters to report specified incidents of suspected abuse of an elder or dependent adult. Existing law contains other law and other provisions.

This bill would authorize an officer, employee, or agent of a financial institution to report incidents of suspected financial abuse of an elder or dependent adult. No action shall lie against any officer, employee, or agent of a financial institution, nor against the financial institution itself, for any disclosure as provided in subdivision (a), nor for any discussions, participation, or testimony given by those officers, employees, or agents in connection with a disclosure made pursuant to subdivision (a). No action shall lie against any officer, employee, or agent of a financial institution, nor against a financial institution itself, for failure to make any report authorized by subdivision (a),

nor shall the absence of that report be admissible in a civil action that the financial institution or its *officers*, employees, or agents are a party to. This bill contains other provisions and other law.

STATUS: Senate Banking, Finance and Insurance Committee, amended & re-referred to B., F. & Ins. Committee 7/6/05
Passed Assembly Floor
Passed Assembly Banking and Finance, 5/2/05
Passed Assembly Aging & Long Term Care Committee, as amended, 4/27/05

****AB 1664 De La Torre Naturalization Services Program**

An act to add Section 12089 to the Government Code, relating to citizenship assistance.

Legislative information is available on the internet by logging onto: California State Assembly, www.assembly.ca.gov or California State Senate, www.sen.ca.gov. You may subscribe to receive email updates from these websites free of charge.

If you have questions or comments regarding the information contained in this Legislative Report, please contact June P. Hamilton, Legislative Liaison, at (916) 552-8056 or by email: jhamilton@seniorleg.ca.gov or Senior Senator Jerry Smith, Chair, California Senior Legislature (CSL) Legislative Committee at (530) 233-1905 or by email: jrandevelyn@yahoo.com.