

California

Comm. to Defend Reprod. Rights v. Myers, 29 Cal. 3d 252, 172 Cal. Rptr. 866, 625 P.2d 779 (1981)

This case holds that the California Constitution grants all women a fundamental constitutional right to choose whether to bear a child and to remain free from unwarranted governmental intrusion into that decision.

CONSTITUTION OF THE STATE OF CALIFORNIA

Article I DECLARATION OF RIGHTS, CAL. Const., Art 1 ss 1.1

§ 1.1. Reproductive freedom

The state shall not deny or interfere with an individual's reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives. This section is intended to further the constitutional right to privacy guaranteed by Section 1, and the constitutional right to not be denied equal protection guaranteed by Section 7. Nothing herein narrows or limits the right to privacy or equal protection.

History

Added by Proposition 1, Resolution Ch. 97, 2022, effective December 21, 2022.

Cal Const, Art. I § 1.1

Deering's California Codes Annotated

HEALTH AND SAFETY CODE (§§ 1-151003)

Division 106 Personal Health Care (Including Maternal, Child, and Adolescent) (Pts. 1-10), Part 2 Maternal, Child, and Adolescent Health (Chs. 1-6)

Chapter 2 Maternal Health (Arts. 1-7)

Article 1 Determination of Pregnancy (§§ 123375-123385)

Article 1. Determination of Pregnancy

§ 123375. Required certificate of acceptability of materials; Exception; Application for certification; Misdemeanor

(a) Except as otherwise provided in subdivision (b), no person shall sell, offer for sale, give away, distribute, or otherwise furnish materials intended to determine the presence of pregnancy, unless that person has obtained a certificate of acceptability from the department declaring that the materials have been approved as to efficacy and safety by the department.

(b) Subdivision (a) shall not apply to materials intended to determine the presence of pregnancy, that are sold, offered for sale, given away, distributed, or otherwise furnished to a physician and surgeon licensed to practice in this state, a pharmacist licensed to practice in this state, a licensed primary care clinic, a licensed health facility, or a public health agency.

(c) Any person other than a person described in subdivision (b) who intends to sell, offer for sale, give away, distribute or otherwise furnish materials intended to determine the presence of pregnancy shall first make application to the state department for certification of the materials. The department shall also require that an application for certification shall be accompanied by samples of any materials that are the subject of the application as the department may reasonably require.

Any violation of this section is a misdemeanor.

Cal. Health & Safety Code § 123375 (Deering, Lexis Advance through the 2022 Regular Session)

§ 123380. Testing services by local agencies; Confidentiality of test results

Local public health agencies shall make pregnancy testing services available free or at cost to the person using the services. The results of any pregnancy test shall be confidential.

Cal. Health & Safety Code § 123380 (Deering, Lexis Advance through the 2022 Regular Session)

§ 123385. Self-sufficiency of program; legislative intent

It is the intent of the Legislature that the program authorized pursuant to this article be entirely self-supporting, and for this purpose the state department is authorized to establish a schedule of fees for applications for certificates of acceptability that shall provide revenues that shall not exceed the amount necessary, but shall be sufficient to cover all costs incurred in the administration of this article.

Cal. Health & Safety Code § 123385 (Deering, Lexis Advance through the 2022 Regular Session)

Deering's California Codes Annotated

HEALTH AND SAFETY CODE (§§ 1-151003)

Division 106 Personal Health Care (Including Maternal, Child, and Adolescent) (Pts. 1-10)

Part 2 Maternal, Child, and Adolescent Health (Chs. 1- 6)

Chapter 2 Maternal Health (Arts. 1-7)

Article 2.3 Abortion Practical Support Fund (§§ 51-123453)

§ 123451. Definitions; Fund established

(a) As used in this article, the following definitions apply:

(1) "Abortion" has the same meaning as defined in Section 123464.

(2) "Department" means the Department of Health Care Access and Information.

(3) "Fund" means the Abortion Practical Support Fund.

(4) "Grantee" means a qualifying nonprofit organization in California that assists pregnant people with direct practical support for the purposes of obtaining an abortion.

(5) "Practical support" means financial or in-kind assistance to help a person access and obtain an abortion in California.

(b) The Abortion Practical Support Fund is hereby established in the State Treasury for the purpose of providing grants described in Section 123452. Notwithstanding Section 13340 of the Government Code, moneys in the Abortion Practical Support Fund are continuously appropriated

to the department for providing grants described in Section 123452 and administrative costs as described in subdivision (d).

(c) Notwithstanding any other law, the department may receive and deposit moneys in the fund from the following entities:

(1) Nonstate entities, such as private sector or philanthropic entities.

(2) Local and federal government agencies.

(d) The department shall administer the fund. No more than 5 percent of the moneys in the fund shall be available for the department's administrative activities related to planning and production of grants.

(e) Beginning no later than July 1, 2022, the fund shall be available to receive moneys from nonstate entities.

Cal. Health & Safety Code § 123451 (Deering, Lexis Advance through the 2022 Regular Session)

§ 123452. Use of funds

(a) The department, or its contracted vendor, shall use moneys in the fund to administer grants to nonprofit organizations in California that are exempt from taxation under Section 501(c) of the Internal Revenue Code and that either specialize in assisting pregnant people who are low income, or who face other financial barriers. A grant recipient under this subdivision shall use the funds awarded to fund a new program or support an existing program that increases patient access to abortion. By way of nonlimiting examples, the program and the awarded funds may be used for any of the following:

(1) Practical support services related to seeking abortion.

(2) Abortion navigators, patient navigators, and community health workers services based in California.

(3) Case management support for patients seeking abortion.

(4) Costs associated with training volunteers and staff in the provision of practical support services to abortion patients in California.

(5) Costs associated with enabling grantees that meet the requirements of this section to assist pregnant people with practical support services, including staffing and administrative costs.

(6) Costs associated with coordinating practical support services, abortion providers, and other support services in California.

(b)

(1) Unless otherwise specified by the department, grants under this article are for a period of one year and may be renewed.

(2) An application for a grant shall be made on a form to be developed by the department or its contracted vendor.

(3) Decisions regarding the grants and the funding level of the grant shall be made after consideration of all relevant factors, such as the grantee's anticipated level of need and the availability of funds.

(c) To administer this section, the department, or its contracted vendor, shall use moneys in the fund to pay direct and indirect costs of the department, or its contracted vendor, including hiring or administrative costs.

(d) The department, or its contracted vendor, shall use moneys in the fund to maintain a system of financial reporting on all aspects of the fund. The financial reporting shall include, but is not limited to, information from the grantees on their expenditures and activities using grant funds

associated with this article as the department deems necessary to ensure the use of the funds are consistent with the purposes of this article and the terms of any grant award.

(e) For purposes of this section, the department, or its contracted vendor, shall not require the submission of any identifying personal information about individuals receiving practical support services as part of an application for a grant or reporting of expenditures and activities using grant funds under this article. Information required by the department, or its contracted vendor, may only include information in summary, statistical, or other forms that do not identify particular individuals.

(f) An application for a grant under this article and financial reporting by grantees are exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(g) Contracts entered into or amended pursuant to this article are exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, Section 19130 of the Government Code, Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, and the State Administrative Manual, and are exempt from the review or approval of any division of the Department of General Services.

Cal. Health & Safety Code § 123452 (Deering, Lexis Advance through the 2022 Regular Session)

§ 123452.5. Evaluation of grant program; Report [Effective January 1, 2023]

The department shall conduct an evaluation of the grant program implemented pursuant to Section 123452 and shall report its findings to the Legislature no later than January 1, 2025, and on an annual basis no later than each January 1 thereafter. The first annual report shall cover the period before July 1, 2024. Each subsequent annual report shall cover the previous fiscal year.

The department may use moneys in the fund, upon appropriation by the Legislature, for the evaluation of the program. The report shall be submitted in compliance with Section 9795 of the Government Code.

Cal Health & Saf Code § 123452.5

§ 123453. Legislative intent to support abortion in California

This article shall be construed to effectuate its legislative intent to support access to abortion in California and build upon its commitment to be a reproductive freedom state. The United States Supreme Court overturned the protections to access abortion under *Roe v. Wade*. For decades, abortion funds, abortion providers, and other community-based organizations have provided direct and indirect support to callers and patients with logistical and practical support needs. The purpose of this article ensures that people seeking abortion care have access to the logistical and practical support resources needed, to diminish barriers to care. The purpose of this article and all of its provisions with respect to the powers granted shall be interpreted to effectuate that intent and purposes to support organizations in California who provide support and resources to people seeking abortion.

Cal. Health & Safety Code § 123453 (Deering, Lexis Advance through the 2022 Regular Session)

Deering's California Codes Annotated
HEALTH AND SAFETY CODE (§§ 1-151003)
Division 106 Personal Health Care (Including Maternal, Child, and Adolescent) (Pts. 1-10)
Part 2 Maternal, Child, and Adolescent Health (Chs. 1-6)
Chapter 2 Maternal Health (Arts. 1-7)
Article 2.5 Reproductive Privacy Act (§§ 123460-123469)

§ 123460. Citation of article

This article shall be known and may be cited as the Reproductive Privacy Act.

§ 123462. Legislative findings and declarations [Effective until January 1, 2023]

The Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions. Accordingly, it is the public policy of the State of California that:

- (a) Every individual has the fundamental right to choose or refuse birth control.
- (b) Every woman has the fundamental right to choose to bear a child or to choose and to obtain an abortion, except as specifically limited by this article.
- (c) The state shall not deny or interfere with a woman's fundamental right to choose to bear a child or to choose to obtain an abortion, except as specifically permitted by this article.

Cal. Health & Safety Code § 123462 (Deering, Lexis Advance through the 2022 Regular Session)

§ 123464. Definitions

The following definitions shall apply for purposes of this chapter:

- (a) "Abortion" means any medical treatment intended to induce the termination of a pregnancy except for the purpose of producing a live birth.
- (b) "Pregnancy" means the human reproductive process, beginning with the implantation of an embryo.
- (c) "State" means the State of California, and every county, city, town and municipal corporation, and quasi-municipal corporation in the state.
- (d) "Viability" means the point in a pregnancy when, in the good faith medical judgment of a physician, on the particular facts of the case before that physician, there is a reasonable likelihood of the fetus' sustained survival outside the uterus without the application of extraordinary medical measures.

Cal. Health & Safety Code § 123464 (Deering, Lexis Advance through the 2022 Regular Session)

§ 123466. Woman's right to choose or obtain abortion [Effective until January 1, 2024]

- (a) The state shall not deny or interfere with a woman's or pregnant person's right to choose or obtain an abortion before the viability of the fetus, or when the abortion is necessary to protect the life or health of the woman or pregnant person.
- (b) A person shall not be compelled in a state, county, city, or other local criminal, administrative, legislative, or other proceeding to identify or provide information that would

identify or that is related to an individual who has sought or obtained an abortion if the information is being requested based on either another state's laws that interfere with a person's rights under subdivision (a) or a foreign penal civil action, as defined in Section 2029.200 of the Code of Civil Procedure.

Cal. Health & Safety Code § 123466 (Deering, Lexis Advance through the 2022 Regular Session)

§ 123466. Woman's right to choose or obtain abortion [Effective January 1, 2023]

The state shall not deny or interfere with a woman's or pregnant person's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman or pregnant person.

Cal Health & Saf Code § 123466

§ 123467. Civil or criminal liability or penalty [Effective January 1, 2023]

(a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights under this article, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to causes that occurred in utero.

(b) A person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.

Cal Health & Saf Code § 123467

§ 123467.5. Laws of other states authorizing civil actions

(a) A law of another state that authorizes a person to bring a civil action against a person or entity that does any of the following is contrary to the public policy of this state:

(1) Receives or seeks an abortion.

(2) Performs or induces an abortion.

(3) Knowingly engages in conduct that aids or abets the performance or inducement of an abortion.

(4) Attempts or intends to engage in the conduct described in paragraphs (1) to (3), inclusive.

(b) The state shall not do either of the following:

(1) Apply a law described in subdivision (a) to a case or controversy heard in state court.

(2) Enforce or satisfy a civil judgment received through an adjudication under a law described in subdivision (a).

(c) 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.

Cal. Health & Safety Code § 123467.5 (Deering, Lexis Advance through the 2022 Regular Session)

§ 123468. Unauthorized abortions [Effective until January 1, 2023]

The performance of an abortion is unauthorized if either of the following is true:

- (a) The person performing the abortion is not a health care provider authorized to perform an abortion pursuant to Section 2253 of the Business and Professions Code.
- (b) The abortion is performed on a viable fetus, and both of the following are established:
 - (1) In the good faith medical judgment of the physician, the fetus was viable.
 - (2) In the good faith medical judgment of the physician, continuation of the pregnancy posed no risk to life or health of the pregnant woman.

Cal. Health & Safety Code § 123468 (Deering, Lexis Advance through the 2022 Regular Session)

§ 123468. Unauthorized abortions [Effective January 1, 2023]

The performance of an abortion is unauthorized if performed by someone other than the pregnant person and if either of the following is true:

- (a) The person performing the abortion is not a health care provider authorized to perform an abortion pursuant to Section 2253 of the Business and Professions Code.
- (b) The abortion is performed on a viable fetus, and both of the following are established:
 - (1) In the good faith medical judgment of the physician, the fetus was viable.
 - (2) In the good faith medical judgment of the physician, continuation of the pregnancy posed no risk to life or health of the pregnant person.

Cal Health & Saf Code § 123468

§ 123469. Civil action for violation of article [Effective January 1, 2023]

- (a) A party whose reproductive rights are protected by this article and whose reproductive rights are interfered with by conduct or by a statute, ordinance, or other state or local rule, regulation, or enactment in violation of this article may bring a civil action against an offending state actor in a state superior court.
- (b) Whoever denies a right protected by this article, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, all of the following:
 - (1) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages.
 - (2) A civil penalty of twenty-five thousand dollars (\$25,000), to be awarded to the person denied the right protected by this article.
 - (3) Preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this article.
 - (4) Upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in an action brought pursuant to this section. In awarding reasonable attorney's fees, the court shall consider the degree to which the relief obtained relates to the relief sought.
- (c) An action under subdivision (b) shall be commenced within three years of the alleged practice violation of this article.
- (d)

(1) A party aggrieved by conduct or regulation in violation of this article may also bring a civil action pursuant to Section 52.1 of the Civil Code. Notwithstanding Section 821.6 of the Government Code, a civil action pursuant to Section 52.1 of the Civil Code may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of this article.

(2) For purpose of establishing liability pursuant to this subdivision, the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes “threat, intimidation, or coercion” pursuant to Section 52.1 of the Civil Code.

(e) Sections 825, 825.2, 825.4, and 825.6 of the Government Code, providing for indemnification of an employee or former employee of a public entity, apply to any cause of action brought under this section against an employee or former employee of a public entity.

Cal Health & Saf Code § 123469

Deering’s California Codes Annotated

HEALTH AND SAFETY CODE (§§ 1 — 151003)

Division 106 Personal Health Care (Including Maternal, Child, and Adolescent) (Pts. 1 — 10)

Part 2 Maternal, Child, and Adolescent Health (Chs. 1 — 6)

Chapter 2 Maternal Health (Arts. 1 — 7)

Article 2.7 Reproductive FACT Act (§§ 123470 — 123473)

§ 123470. Citation of act

This article shall be known and may be cited as the Reproductive FACT (Freedom, Accountability, Comprehensive Care, and Transparency) Act or Reproductive FACT Act. Cal. Health & Safety Code § 123470 (Deering, Lexis Advance through the 2022 Regular Session)

§ 123471. Licensed covered facility; Unlicensed covered facility

(a) For purposes of this article, and except as provided in subdivision (c), “licensed covered facility” means a facility licensed under Section 1204 or an intermittent clinic operating under a primary care clinic pursuant to subdivision (h) of Section 1206, whose primary purpose is providing family planning or pregnancy-related services, and that satisfies two or more of the following:

- (1) The facility offers obstetric ultrasounds, obstetric sonograms, or prenatal care to pregnant women.
- (2) The facility provides, or offers counseling about, contraception or contraceptive methods.
- (3) The facility offers pregnancy testing or pregnancy diagnosis.
- (4) The facility advertises or solicits patrons with offers to provide prenatal sonography, pregnancy tests, or pregnancy options counseling.
- (5) The facility offers abortion services.
- (6) The facility has staff or volunteers who collect health information from clients.

(b) For purposes of this article, subject to subdivision (c), “unlicensed covered facility” is a facility that is not licensed by the State of California and does not have a licensed medical provider on staff or under contract who provides or directly supervises the provision of all of the

services, whose primary purpose is providing pregnancy-related services, and that satisfies two or more of the following:

(1) The facility offers obstetric ultrasounds, obstetric sonograms, or prenatal care to pregnant women.

(2) The facility offers pregnancy testing or pregnancy diagnosis.

(3) The facility advertises or solicits patrons with offers to provide prenatal sonography, pregnancy tests, or pregnancy options counseling.

(4) The facility has staff or volunteers who collect health information from clients.

(c) This article shall not apply to either of the following:

(1) A clinic directly conducted, maintained, or operated by the United States or any of its departments, officers, or agencies.

(2) A licensed primary care clinic that is enrolled as a Medi-Cal provider and a provider in the Family Planning, Access, Care, and Treatment Program.

Cal. Health & Safety Code § 123471 (Deering, Lexis Advance through the 2022 Regular Session)

§ 123472. Notice for Medi-Cal beneficiaries

(a) A licensed covered facility shall disseminate to clients on site the following notice in English and in the primary threshold languages for Medi-Cal beneficiaries as determined by the State Department of Health Care Services for the county in which the facility is located.

(1) The notice shall state:

“California has public programs that provide immediate free or low-cost access to comprehensive family planning services (including all FDA-approved methods of contraception), prenatal care, and abortion for eligible women. To determine whether you qualify, contact the county social services office at [insert the telephone number].”

(2) The information shall be disclosed in one of the following ways:

(A) A public notice posted in a conspicuous place where individuals wait that may be easily read by those seeking services from the facility. The notice shall be at least 8.5 inches by 11 inches and written in no less than 22-point type.

(B) A printed notice distributed to all clients in no less than 14-point type.

(C) A digital notice distributed to all clients that can be read at the time of check-in or arrival, in the same point type as other digital disclosures. A printed notice as described in subparagraph (B) shall be available for all clients who cannot or do not wish to receive the information in a digital format.

(3) The notice may be combined with other mandated disclosures.

(b) An unlicensed covered facility shall disseminate to clients on site and in any print and digital advertising materials including Internet Web sites, the following notice in English and in the primary threshold languages for Medi-Cal beneficiaries as determined by the State Department of Health Care Services for the county in which the facility is located.

(1) The notice shall state: “This facility is not licensed as a medical facility by the State of California and has no licensed medical provider who provides or directly supervises the provision of services.”

(2) The onsite notice shall be a sign at least 8.5 inches by 11 inches and written in no less than 48-point type, and shall be posted conspicuously in the entrance of the facility and at least one additional area where clients wait to receive services.

(3) The notice in the advertising material shall be clear and conspicuous. “Clear and conspicuous” means in larger point type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks that call attention to the language.

Cal. Health & Safety Code § 123472 (Deering, Lexis Advance through the 2022 Regular Session)

§ 123473. Civil penalties

(a) Covered facilities that fail to comply with the requirements of this article are liable for a civil penalty of five hundred dollars (\$500) for a first offense and one thousand dollars (\$1,000) for each subsequent offense. The Attorney General, city attorney, or county counsel may bring an action to impose a civil penalty pursuant to this section after doing both of the following:

(1) Providing the covered facility with reasonable notice of noncompliance, which informs the facility that it is subject to a civil penalty if it does not correct the violation within 30 days from the date the notice is sent to the facility.

(2) Verifying that the violation was not corrected within the 30-day period described in paragraph (1).

(b) The civil penalty shall be deposited into the General Fund if the action is brought by the Attorney General. If the action is brought by a city attorney, the civil penalty shall be paid to the treasurer of the city in which the judgment is entered. If the action is brought by a county counsel, the civil penalty shall be paid to the treasurer of the county in which the judgment is entered.

Cal. Health & Safety Code § 123473 (Deering, Lexis Advance through the 2022 Regular Session)

Deering’s California Codes Annotated

HEALTH AND SAFETY CODE (§§ 1 — 151003)

Division 106 Personal Health Care (Including Maternal, Child, and Adolescent) (Pts. 1 — 10)

Part 2 Maternal, Child, and Adolescent Health (Chs. 1 — 6)

Chapter 2 Maternal Health (Arts. 1 — 7)

Article 2 Abortion (§§ 123400 — 123450)

§ 123418. Program requirements for residency education in obstetrics and gynecology

Subject to all other provisions of this article, all residency programs in obstetrics and gynecology shall comply with the program requirements for residency education in obstetrics and gynecology of the Accreditation Council for Graduate Medical Education, which require that in addition to education and training in in-patient care, the program in obstetrics-gynecology be geared toward the development of competence in the provision of ambulatory primary health care for women, including, but not limited to, training in the performance of abortion services.

Cal. Health & Safety Code § 123418 (Deering, Lexis Advance through the 2022 Regular Session)

§ 123420. Misdemeanors; Employers requiring participation in abortion;
Discrimination against employee for refusal

(a) No employer or other person shall require a physician, a registered nurse, a licensed vocational nurse, or any other person employed or with staff privileges at a hospital, facility, or clinic to directly participate in the induction or performance of an abortion, if the employee or other person has filed a written statement with the employer or the hospital, facility, or clinic indicating a moral, ethical, or religious basis for refusal to participate in the abortion.

No such employee or person with staff privileges in a hospital, facility, or clinic shall be subject to any penalty or discipline by reason of his or her refusal to participate in an abortion. No such employee of a hospital, facility, or clinic that does not permit the performance of abortions, or person with staff privileges therein, shall be subject to any penalty or discipline on account of the person's participation in the performance of an abortion in other than the hospital, facility, or clinic.

No employer shall refuse to employ any person because of the person's refusal for moral, ethical, or religious reasons to participate in an abortion, unless the person would be assigned in the normal course of business of any hospital, facility, or clinic to work in those parts of the hospital, facility, or clinic where abortion patients are cared for. No provision of this article prohibits any hospital, facility, or clinic that permits the performance of abortions from inquiring whether an employee or prospective employee would advance a moral, ethical, or religious basis for refusal to participate in an abortion before hiring or assigning that person to that part of a hospital, facility, or clinic where abortion patients are cared for.

The refusal of a physician, nurse, or any other person to participate or aid in the induction or performance of an abortion pursuant to this subdivision shall not form the basis of any claim for damages.

(b) No medical school or other facility for the education or training of physicians, nurses, or other medical personnel shall refuse admission to a person or penalize the person in any way because of the person's unwillingness to participate in the performance of an abortion for moral, ethical, or religious reasons. No hospital, facility, or clinic shall refuse staff privileges to a physician because of the physician's refusal to participate in the performance of abortion for moral, ethical, or religious reasons.

(c) Nothing in this article shall require a nonprofit hospital or other facility or clinic that is organized or operated by a religious corporation or other religious organization and licensed pursuant to Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250) of Division 2, or any administrative officer, employee, agent, or member of the governing board thereof, to perform or to permit the performance of an abortion in the facility or clinic or to provide abortion services. No such nonprofit facility or clinic organized or operated by a religious corporation or other religious organization, nor its administrative officers, employees, agents, or members of its governing board shall be liable, individually or collectively, for failure or refusal to participate in any such act. The failure or refusal of any such corporation, unincorporated association or individual person to perform or to permit the performance of such medical procedures shall not be the basis for any disciplinary or other recriminatory action against such corporations, unincorporated associations, or individuals. Any such facility or clinic that does not permit the performance of abortions on its premises shall post notice of that proscription in an area of the facility or clinic that is open to patients and prospective admittees.

(d) This section shall not apply to medical emergency situations and spontaneous abortions.

Any violation of this section is a misdemeanor.

Cal. Health & Safety Code § 123420 (Deering, Lexis Advance through the 2022 Regular Session)

§ 123425. Nonsubmission or submission to abortion or surgical sterilization, as not grounds for loss of privileges and immunities, nor conditions precedent to public benefit

The refusal of any person to submit to an abortion or surgical sterilization or to give consent therefor shall not be grounds for loss of any privileges or immunities to which the person would otherwise be entitled, nor shall submission to an abortion or surgical sterilization or the granting of consent therefor be a condition precedent to the receipt of any public benefits. The decision of any person to submit to an abortion or surgical sterilization or to give consent therefor shall not be grounds for loss of any privileges or immunities to which the person would otherwise be entitled, nor shall the refusal to submit to an abortion or surgical sterilization or to give consent therefor be a condition precedent to the receipt of any public benefits.

Cal. Health & Safety Code § 123425 (Deering, Lexis Advance through the 2022 Regular Session)

§ 123430. Internet website providing information on abortion services [Effective January 1, 2023]

(a)

(1) To ensure people have accurate and comprehensive information when accessing abortion services in California, on or before July 1, 2023, the California Health and Human Services Agency, or an entity designated by the agency, shall establish an internet website where the public can access information on abortion services in the state.

(2) The internet website established pursuant to paragraph (1) shall include all of the following information and resources:

(A) A person's legally protected rights to an abortion under state law.

(B) The location of abortion providers or links to the information in the state. Location information shall be posted and updated in a manner that allows people to easily identify the health care providers that provide abortion in the state.

(C) Practical support services, such as airfare, lodging, ground transportation, gas money, meals, dependent childcare, doula support, and translation services, to help a person access and obtain an abortion.

(D) Payment support resources, including coverage options, state programs, and other assistance that is available to help people with the cost of the abortion procedure.

(E) General description of the available types of abortion.

(F) Information to combat misinformation and disinformation, and ensure that people have comprehensive and medically accurate counseling and support services.

(G) Any other information or resources that will assist an individual seeking comprehensive and accurate information about exercising their legal right to abortion and accessing abortion services in the state.

(3) The agency shall consult with subject matter experts when determining the information and resources posted on the internet website. "Subject matter experts" include, but is not limited to, the Commission on the Status of Women and Girls, the Department of Justice, the State

Department of Health Care Services, the Department of Managed Health Care, and organizations that represent patients, providers, and assistants that obtain, provide, or assist a pregnant person to access an abortion.

(4) The internet website shall have mobile capabilities.

(5) The internet website shall comply with Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794d), regulations implementing that act as set forth in Part 1194 of Title 36 of the Federal Code of Regulations, and any laws or regulations governing the accessibility of state internet websites.

(6) The agency, in consultation with the subject matter experts, shall review the information and resources on the internet website to ensure that it is current and updated at reasonable intervals, but no less than once every six months. The website shall contain a feature to allow users to report erroneous or outdated information.

(b) The internet website and informational materials created and distributed pursuant to this section shall be made available in a manner to ensure that they are accessible by all state residents. The internet website and informational materials shall be translated into Spanish, Chinese, Tagalog, Vietnamese, and Korean and in compliance with the Dymally-Alatorre Bilingual Services Act (Chapter 17.5 (commencing with Section 7290) of Division 7 of Title 1 of the Government Code).

(c) Notwithstanding subdivision (a), the internet website established pursuant to this section shall not include the name or location of any individual who is an abortion provider.

Cal Health & Saf Code § 123430

§ 123435. Rights to medical treatment of infant prematurely born alive in course of abortion

The rights to medical treatment of an infant prematurely born alive in the course of an abortion shall be the same as the rights of an infant of similar medical status prematurely born spontaneously.

Cal. Health & Safety Code § 123435 (Deering, Lexis Advance through the 2022 Regular Session)

§ 123440. Prohibited use of aborted product, other than “fetal remains”; Unprofessional conduct

(a) It is unlawful for any person to use any aborted product of human conception, other than fetal remains, for any type of scientific or laboratory research or for any other kind of experimentation or study, except to protect or preserve the life and health of the fetus. “Fetal remains,” as used in this section, means a lifeless product of conception regardless of the duration of pregnancy. A fetus shall not be deemed to be lifeless for the purposes of this section, unless there is an absence of a discernible heartbeat.

(b) In addition to any other criminal or civil liability that may be imposed by law, any violation of this section constitutes unprofessional conduct within the meaning of the Medical Practice Act, Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

Cal. Health & Safety Code § 123440 (Deering, Lexis Advance through the 2022 Regular Session)

§ 123445. Fetal experimentation; Storage and disposition; Violation as misdemeanor

(a) Except as provided in subdivision (b), at the conclusion of any scientific or laboratory research or any other kind of experimentation or study upon fetal remains, the fetal remains shall be promptly interred or disposed of by incineration.

Storage of the fetal remains prior to the completion of the research, experimentation, or study shall be in a place not open to the public, and the method of storage shall prevent any deterioration of the fetal remains that would create a health hazard.

(b) Subdivision (a) shall not apply to public or private educational institutions.

Any violation of this section is a misdemeanor.

Cal. Health & Safety Code § 123445 (Deering, Lexis Advance through the 2022 Regular Session)

§ 123450. Performance of abortion on unemancipated minor; Consent; Petition without consent of parent or guardian; Appeal

(a) Except in a medical emergency requiring immediate medical action, no abortion shall be performed upon an unemancipated minor unless she first has given her written consent to the abortion and also has obtained the written consent of one of her parents or legal guardian.

(b) If one or both of an unemancipated, pregnant minor's parents or her guardian refuse to consent to the performance of an abortion, or if the minor elects not to seek the consent of one or both of her parents or her guardian, an unemancipated pregnant minor may file a petition with the juvenile court. If, pursuant to this subdivision, a minor seeks a petition, the court shall assist the minor or person designated by the minor in preparing the petition and notices required pursuant to this section. The petition shall set forth with specificity the minor's reasons for the request. The court shall ensure that the minor's identity is confidential. The minor may file the petition using only her initials or a pseudonym. An unemancipated pregnant minor may participate in the proceedings in juvenile court on her own behalf, and the court may appoint a guardian ad litem for her. The court shall, however, advise her that she has a right to court-appointed counsel upon request. The hearing shall be set within three days of the filing of the petition. A notice shall be given to the minor of the date, time, and place of the hearing on the petition.

(c) At the hearing on a minor's petition brought pursuant to subdivision (b) for the authorization of an abortion, the court shall consider all evidence duly presented, and order either of the following:

(1) If the court finds that the minor is sufficiently mature and sufficiently informed to make the decision on her own regarding an abortion, and that the minor has, on that basis, consented thereto, the court shall grant the petition.

(2) If the court finds that the minor is not sufficiently mature and sufficiently informed to make the decision on her own regarding an abortion, the court shall then consider whether performance of the abortion would be in the best interest of the minor. In the event that the court finds that the performance of the abortion would be in the minor's best interest, the court shall grant the petition ordering the performance of the abortion without consent of, or notice to, the parents or guardian. In the event that the court finds that the performance of the abortion is not in the best interest of the minor, the court shall deny the petition.

Judgment shall be entered within one court day of submission of the matter.

(d) The minor may appeal the judgment of the juvenile court by filing a written notice of appeal at any time after the entry of the judgment. The Judicial Council shall prescribe, by rule, the practice and procedure on appeal and the time and manner in which any record on appeal shall be prepared and filed. These procedures shall require that the notice of the date, time, and place of hearing, which shall be set within five court days of the filing of notice of appeal, shall be mailed to the parties by the clerk of the court. The appellate court shall ensure that the minor's identity is confidential. The minor may file the petition using only her initials or a pseudonym. Judgment on appeal shall be entered within one court day of submission of the matter.

(e) No fees or costs incurred in connection with the procedures required by this section shall be chargeable to the minor or her parents, or either of them, or to her legal guardian.

(f) It is a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in the county jail of up to 30 days, or both, for any person to knowingly perform an abortion on an unmarried or unemancipated minor without complying with the requirements of this section.

Cal. Health & Safety Code § 123450 (Deering, Lexis Advance through the 2022 Regular Session)

Deering's California Codes Annotated

HEALTH AND SAFETY CODE (§§ 1 — 151003)

Division 106 Personal Health Care (Including Maternal, Child, and Adolescent) (Pts. 1 — 10)

Part 2 Maternal, Child, and Adolescent Health (Chs. 1 — 6)

Chapter 2 Maternal Health (Arts. 1 — 7)

Article 2.3 Abortion Practical Support Fund (§§ 123451 — 123453)

§ 123451. Definitions; Fund established

(a) As used in this article, the following definitions apply:

(1) "Abortion" has the same meaning as defined in Section 123464.

(2) "Department" means the Department of Health Care Access and Information.

(3) "Fund" means the Abortion Practical Support Fund.

(4) "Grantee" means a qualifying nonprofit organization in California that assists pregnant people with direct practical support for the purposes of obtaining an abortion.

(5) "Practical support" means financial or in-kind assistance to help a person access and obtain an abortion in California.

(b) The Abortion Practical Support Fund is hereby established in the State Treasury for the purpose of providing grants described in Section 123452. Notwithstanding Section 13340 of the Government Code, moneys in the Abortion Practical Support Fund are continuously appropriated to the department for providing grants described in Section 123452 and administrative costs as described in subdivision (d).

(c) Notwithstanding any other law, the department may receive and deposit moneys in the fund from the following entities:

(1) Nonstate entities, such as private sector or philanthropic entities.

(2) Local and federal government agencies.

(d) The department shall administer the fund. No more than 5 percent of the moneys in the fund shall be available for the department's administrative activities related to planning and production of grants.

(e) Beginning no later than July 1, 2022, the fund shall be available to receive moneys from nonstate entities.

Cal. Health & Safety Code § 123451 (Deering, Lexis Advance through the 2022 Regular Session)

§ 123452. Use of funds

(a) The department, or its contracted vendor, shall use moneys in the fund to administer grants to nonprofit organizations in California that are exempt from taxation under Section 501(c) of the Internal Revenue Code and that either specialize in assisting pregnant people who are low income, or who face other financial barriers. A grant recipient under this subdivision shall use the funds awarded to fund a new program or support an existing program that increases patient access to abortion. By way of nonlimiting examples, the program and the awarded funds may be used for any of the following:

(1) Practical support services related to seeking abortion.

(2) Abortion navigators, patient navigators, and community health workers services based in California.

(3) Case management support for patients seeking abortion.

(4) Costs associated with training volunteers and staff in the provision of practical support services to abortion patients in California.

(5) Costs associated with enabling grantees that meet the requirements of this section to assist pregnant people with practical support services, including staffing and administrative costs.

(6) Costs associated with coordinating practical support services, abortion providers, and other support services in California.

(b)

(1) Unless otherwise specified by the department, grants under this article are for a period of one year and may be renewed.

(2) An application for a grant shall be made on a form to be developed by the department or its contracted vendor.

(3) Decisions regarding the grants and the funding level of the grant shall be made after consideration of all relevant factors, such as the grantee's anticipated level of need and the availability of funds.

(c) To administer this section, the department, or its contracted vendor, shall use moneys in the fund to pay direct and indirect costs of the department, or its contracted vendor, including hiring or administrative costs.

(d) The department, or its contracted vendor, shall use moneys in the fund to maintain a system of financial reporting on all aspects of the fund. The financial reporting shall include, but is not limited to, information from the grantees on their expenditures and activities using grant funds associated with this article as the department deems necessary to ensure the use of the funds are consistent with the purposes of this article and the terms of any grant award.

(e) For purposes of this section, the department, or its contracted vendor, shall not require the submission of any identifying personal information about individuals receiving practical support services as part of an application for a grant or reporting of expenditures and activities using grant funds under this article. Information required by the department, or its contracted vendor,

may only include information in summary, statistical, or other forms that do not identify particular individuals.

(f) An application for a grant under this article and financial reporting by grantees are exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(g) Contracts entered into or amended pursuant to this article are exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, Section 19130 of the Government Code, Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, and the State Administrative Manual, and are exempt from the review or approval of any division of the Department of General Services Cal. Health & Safety Code § 123452 (Deering, Lexis Advance through the 2022 Regular Session)

§ 123452.5. Evaluation of grant program; Report [Effective January 1, 2023]

The department shall conduct an evaluation of the grant program implemented pursuant to Section 123452 and shall report its findings to the Legislature no later than January 1, 2025, and on an annual basis no later than each January 1 thereafter. The first annual report shall cover the period before July 1, 2024. Each subsequent annual report shall cover the previous fiscal year. The department may use moneys in the fund, upon appropriation by the Legislature, for the evaluation of the program. The report shall be submitted in compliance with Section 9795 of the Government Code.

Cal Health & Saf Code § 123452.5

§ 123453. Construction of article

This article shall be construed to effectuate its legislative intent to support access to abortion in California and build upon its commitment to be a reproductive freedom state. The United States Supreme Court overturned the protections to access abortion under *Roe v. Wade*. For decades, abortion funds, abortion providers, and other community-based organizations have provided direct and indirect support to callers and patients with logistical and practical support needs. The purpose of this article ensures that people seeking abortion care have access to the logistical and practical support resources needed, to diminish barriers to care. The purpose of this article and all of its provisions with respect to the powers granted shall be interpreted to effectuate that intent and purposes to support organizations in California who provide support and resources to people seeking abortion.

Cal. Health & Safety Code § 123453 (Deering, Lexis Advance through the 2022 Regular Session)

§ 123462. Legislative findings and declarations

The Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care. Accordingly, it is the public policy of the State of California that:

(a) Every individual has the fundamental right to choose or refuse birth control.

(b) Every pregnant individual or individual who may become pregnant has the fundamental right to choose to bear a child or to choose to have and to obtain an abortion, except as specifically limited by this article.

(c) The state shall not deny or interfere with the fundamental right of a pregnant individual or an individual who may become pregnant to choose to bear a child or to choose to have and to obtain an abortion, except as specifically permitted by this article.

Cal Health & Saf Code § 123462

§ 123464. Definitions

The following definitions shall apply for purposes of this chapter:

(a) “Abortion” means any medical treatment intended to induce the termination of a pregnancy except for the purpose of producing a live birth.

(b) “Pregnancy” means the human reproductive process, beginning with the implantation of an embryo.

(c) “State” means the State of California, and every county, city, town and municipal corporation, and quasi-municipal corporation in the state.

(d) “Viability” means the point in a pregnancy when, in the good faith medical judgment of a physician, on the particular facts of the case before that physician, there is a reasonable likelihood of the fetus’ sustained survival outside the uterus without the application of extraordinary medical measures.

Cal Health & Saf Code § 123464

§ 123466. Woman’s right to choose or obtain abortion

(a) The state shall not deny or interfere with a woman’s or pregnant person’s right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman or pregnant person.

(b) A person shall not be compelled in a state, county, city, or other local criminal, administrative, legislative, or other proceeding to identify or provide information that would identify or that is related to an individual who has sought or obtained an abortion if the information is being requested based on either another state’s laws that interfere with a person’s rights under subdivision (a) or a foreign penal civil action, as defined in Section 2029.200 of the Code of Civil Procedure.

Cal Health & Saf Code § 123466

123467. Civil or criminal liability or penalty

(a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights under this article, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to causes that occurred in utero.

(b) A person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person’s voluntary consent.

Cal Health & Saf Code § 123467

§ 123467.5. Laws of other states authorizing civil actions

- (a) A law of another state that authorizes a person to bring a civil action against a person or entity that does any of the following is contrary to the public policy of this state:
- (1) Receives or seeks an abortion.
 - (2) Performs or induces an abortion.
 - (3) Knowingly engages in conduct that aids or abets the performance or inducement of an abortion.
 - (4) Attempts or intends to engage in the conduct described in paragraphs (1) to (3), inclusive.
- (b) The state shall not do either of the following:
- (1) Apply a law described in subdivision (a) to a case or controversy heard in state court.
 - (2) Enforce or satisfy a civil judgment received through an adjudication under a law described in subdivision (a).
- (c) 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.

Cal Health & Saf Code § 123467.5

§ 123468. Unauthorized abortions

The performance of an abortion is unauthorized if performed by someone other than the pregnant person and if either of the following is true:

- (a) The person performing the abortion is not a health care provider authorized to perform an abortion pursuant to Section 2253 of the Business and Professions Code.
- (b) The abortion is performed on a viable fetus, and both of the following are established:
 - (1) In the good faith medical judgment of the physician, the fetus was viable.
 - (2) In the good faith medical judgment of the physician, continuation of the pregnancy posed no risk to life or health of the pregnant person.

Cal Health & Saf Code § 123468

§ 123469. Civil action for violation of article

- (a) A party whose reproductive rights are protected by this article and whose reproductive rights are interfered with by conduct or by a statute, ordinance, or other state or local rule, regulation, or enactment in violation of this article may bring a civil action against an offending state actor in a state superior court.
- (b) Whoever denies a right protected by this article, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, all of the following:
 - (1) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages.
 - (2) A civil penalty of twenty-five thousand dollars (\$25,000), to be awarded to the person denied the right protected by this article.

(3) Preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this article.

(4) Upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in an action brought pursuant to this section. In awarding reasonable attorney's fees, the court shall consider the degree to which the relief obtained relates to the relief sought.

(c) An action under subdivision (b) shall be commenced within three years of the alleged practice violation of this article.

(d)

(1) A party aggrieved by conduct or regulation in violation of this article may also bring a civil action pursuant to Section 52.1 of the Civil Code. Notwithstanding Section 821.6 of the Government Code, a civil action pursuant to Section 52.1 of the Civil Code may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of this article.

(2) For purpose of establishing liability pursuant to this subdivision, the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to Section 52.1 of the Civil Code.

(e) Sections 825, 825.2, 825.4, and 825.6 of the Government Code, providing for indemnification of an employee or former employee of a public entity, apply to any cause of action brought under this section against an employee or former employee of a public entity.

Cal Health & Saf Code § 123469

Deering's California Codes Annotated

HEALTH AND SAFETY CODE (§§ 1-151003)

Division 106 Personal Health Care (Including Maternal, Child, and Adolescent) (Pts. 1-10)

Part 2 Maternal, Child, and Adolescent Health (Chs. 1-6)

Chapter 2 Maternal Health (Arts. 1-7)

Article 7 Los Angeles County Abortion Access Safe Haven Pilot Program [Effective January 1, 2023] (§ 123641)

§ 123641. Funding; Use of funds; Reporting; Grants; Contracts [Effective January 1, 2023]

(a)

(1) Of the amounts appropriated in Schedule (3) of Item 4260-101-0001 of the Budget Act of 2022 for this purpose, twenty million dollars (\$20,000,000) is available for encumbrance and expenditure until June 30, 2028, to establish the Los Angeles County Abortion Access Safe Haven Pilot Program for the purpose of expanding and improving access to the full spectrum of sexual and reproductive health care, including abortion, in the County of Los Angeles.

(2) Up to 8 percent of funds allocated may be used by a program administrator, as designated by the County of Los Angeles, to cover administrative costs related to completing activities consistent with this section.

(b) Funds allocated to the County of Los Angeles or its program administrator for the Los Angeles County Abortion Access Safe Haven Pilot Program shall be used to administer a pilot

project to support innovative approaches and patient-centered collaborations to safeguard patient access to abortions. Funds may be used for the purpose of implementing recommendations from the County of Los Angeles, including, but not limited to, any of the following:

- (1)** Providing medically accurate education and training tools to the community.
- (2)** Providing training to health care workers and abortion providers.
- (3)** Building secure infrastructure.
- (4)** Countering misinformation campaigns and providing medically accurate information to health care providers and patients.
- (5)** Coordinating care and patient support services.
- (6)** Advancing and improving access to abortion.

(c)

(1) The Los Angeles County Abortion Access Safe Haven Pilot program administrator shall use funds allocated under this section to maintain a system of financial reporting on all aspects of the fund. The financial reporting shall include information on expenditures and activities using the funds associated with this provision to ensure the use of the funds are consistent with the purposes of this section.

(2) For purposes of this section, the program administrator shall not require the submission of any identifying personal information about individuals providing, participating in, or receiving any service as part of an application for a grant or reporting of expenditures and activities using grant funds under this article. Information required by the program administrator shall only include information in summary, statistical, or other forms that do not identify particular individuals.

(d) The program administrator, as designated by the County of Los Angeles, shall determine a funding framework to prioritize funding for pilot programs and projects in consultation with stakeholders, including representatives from the local departments of public health, the Los Angeles County Chief Executive Office, sexual and reproductive health providers that serve the region, and reproductive health, rights, and justice community-based organizations.

(e) The program administrator shall provide an annual report to the Legislature summarizing the projects and collaborations funded under this section. The report shall also include data on the balances of funds available under this division for expenditures in that fiscal year and future fiscal years. The first annual report shall be submitted on or before January 1, 2025, and shall cover the period of July 1, 2023, to July 1, 2024, inclusive. Each subsequent annual report shall be submitted on or before January 1, and shall cover the previous fiscal year. The report shall be submitted in compliance with Section 9795 of the Government Code.

(f) An application for a grant under this article and financial reporting by grantees are exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(g) The State Department of Health Care Services may enter into exclusive or nonexclusive contracts, or amend existing contracts, on a bid or negotiated basis for purposes of implementing this section. Contracts entered into or amended pursuant to this section are exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, Section 19130 of the Government Code, Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, and the State Administrative Manual, and are exempt from the review or approval of any division of the Department of General Services.

Cal Health & Saf Code § 123641

Deering's California Codes Annotated

PENAL CODE (§§ 1-34370)

Part 1 Of Crimes and Punishments (Titles 1-17)

Title 11.7 California Freedom of Access to Clinic and Church Entrances Act (§§ 423-423.6)

§ 423.1. Definitions

The following definitions apply for the purposes of this title:

- (a)** “Crime of violence” means an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another.
- (b)** “Interfere with” means to restrict a person’s freedom of movement.
- (c)** “Intimidate” means to place a person in reasonable apprehension of bodily harm to themselves or to another.
- (d)** “Nonviolent” means conduct that would not constitute a crime of violence.
- (e)** “Physical obstruction” means rendering ingress to or egress from a reproductive health services facility or to or from a place of religious worship impassable to another person, or rendering passage to or from a reproductive health services facility or a place of religious worship unreasonably difficult or hazardous to another person.
- (f)** “Reproductive health services” means reproductive health services provided in a hospital, clinic, physician’s office, or other facility and includes medical, surgical, counseling, or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.
- (g)** “Reproductive health services patient, provider, or assistant” means a person or entity, including, but not limited to, employees, staff, volunteers, and third-party vendors, that is or was involved in obtaining, seeking to obtain, providing, seeking to provide, or assisting or seeking to assist another person, at that other person’s request, to obtain or provide services in a reproductive health services facility, or a person or entity that is or was involved in owning or operating or seeking to own or operate, a reproductive health services facility.
- (h)** “Reproductive health services facility” includes a hospital, clinic, physician’s office, or other facility that provides or seeks to provide reproductive health services and includes the building or structure in which the facility is located.

Cal. Penal Code § 423.1 (Deering, Lexis Advance through the 2022 Regular Session)

§ 423.2. Actions subject to punishment

Every person who, except a parent or guardian acting towards their minor child or ward, commits any of the following acts shall be subject to the punishment specified in Section 423.3.

- (a)** By force, threat of force, or physical obstruction that is a crime of violence, intentionally injures, intimidates, interferes with, or attempts to injure, intimidate, or interfere with, any person or entity because that person or entity is a reproductive health services patient, provider, or assistant, or in order to intimidate a person or entity, or a class of persons or entities, or from becoming or remaining a reproductive health services patient, provider, or assistant.
- (b)** By force, threat of force, or physical obstruction that is a crime of violence, intentionally injures, intimidates, interferes with, or attempts to injure, intimidate, or interfere with a person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship.

(c) By nonviolent physical obstruction, intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, any person or entity because that person or entity is a reproductive health services patient, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services patient, provider, or assistant.

(d) By nonviolent physical obstruction, intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, a person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship.

(e) Intentionally damages or destroys the property of a person, entity, or facility, or attempts to do so, because the person, entity, or facility is a reproductive health services patient, provider, assistant, or facility.

(f) Intentionally damages or destroys the property of a place of religious worship.

(g) Within 100 feet of the entrance to, or within, a reproductive health services facility, intentionally videotapes, films, photographs, or records by electronic means, a reproductive health services patient, provider, or assistant without that person's consent with specific intent to intimidate the person from becoming or remaining a reproductive health services patient, provider, or assistant, and thereby causes the person to be intimidated.

(h) In any manner or forum, including, but not limited to, internet websites and social media, intentionally discloses or distributes a videotape, film, photograph, or recording knowing it was obtained in violation of subdivision (g) with the specific intent to intimidate the person from becoming or remaining a reproductive health services patient, provider, or assistant, and thereby causes the person to be intimidated. For purposes of this subdivision, "social media" means an electronic service or account, or electronic content, including, but not limited to, videos or still photographs, blogs, video blogs, podcasts, instant and text messages, email, online services or accounts, or internet website profiles or locations.

(i) Subdivisions (g) and (h) do not apply to a person described in subdivision (b) of Section 2 of Article I of the California Constitution.

Cal. Penal Code § 423.2 (Deering, Lexis Advance through the 2022 Regular Session)

§ 423.3. Punishment for violation; Jurisdiction; Violation of federal act

(a) A first violation of subdivision (c), (d), (g), or (h) of Section 423.2 is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than one year, or a fine not to exceed ten thousand dollars (\$10,000), or both that fine and imprisonment.

(b) A second or subsequent violation of subdivision (c), (d), (g), or (h) of Section 423.2 is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than one year, or a fine not to exceed twenty-five thousand dollars (\$25,000), or by both that fine and imprisonment.

(c) A first violation of subdivision (e) or (f) of Section 423.2 is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than one year, or a fine not to exceed twenty-five thousand dollars (\$25,000), or by both that fine and imprisonment.

(d) A first violation of subdivision (a) or (b) of Section 423.2 is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than one year, or a fine not to exceed twenty-five thousand dollars (\$25,000), or by both that fine and imprisonment.

(e) A second or subsequent violation of subdivision (a), (b), (e), or (f) of Section 423.2 is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than one

year, or a fine not to exceed fifty thousand dollars (\$50,000), or by both that fine and imprisonment.

(f) In imposing fines pursuant to this section, the court shall consider applicable factors in aggravation and mitigation set out in Rules 4.421 and 4.423 of the California Rules of Court, and shall consider a prior violation of the federal Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248), or a prior violation of a statute of another jurisdiction that would constitute a violation of Section 423.2 or of the federal Freedom of Access to Clinic Entrances Act of 1994, to be a prior violation of Section 423.2.

(g) This title establishes concurrent state jurisdiction over conduct that is also prohibited by the federal Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248), which provides for misdemeanor penalties for first violations and felony-misdemeanor penalties for second and subsequent violations. State law enforcement agencies and prosecutors shall cooperate with federal authorities in the prevention, apprehension, and prosecution of these crimes, and shall seek federal prosecutions when appropriate.

(h) No person shall be convicted under this article for conduct in violation of Section 423.2 that was done on a particular occasion where the identical conduct on that occasion was the basis for a conviction of that person under the federal Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248).

Cal. Penal Code § 423.3 (Deering, Lexis Advance through the 2022 Regular Session)

§ 423.4. Right to civil proceeding by aggrieved person

(a) A person aggrieved by a violation of Section 423.2 may bring a civil action to enjoin the violation, for compensatory and punitive damages, and for the costs of suit and reasonable fees for attorneys and expert witnesses, except that only a reproductive health services client, provider, or assistant may bring an action under subdivision (a), (c), or (e) of Section 423.2, and only a person lawfully exercising or seeking to exercise the First Amendment right of religious freedom in a place of religious worship, or the entity that owns or operates a place of religious worship, may bring an action under subdivision (b), (d), or (f) of Section 423.2. With respect to compensatory damages, the plaintiff may elect, at any time prior to the rendering of a final judgment, to recover, in lieu of actual damages, an award of statutory damages in the amount of one thousand dollars (\$1,000) per exclusively nonviolent violation, and five thousand dollars (\$5,000) per any other violation, for each violation committed.

(b) The Attorney General, a district attorney, or a city attorney may bring a civil action to enjoin a violation of Section 423.2, for compensatory damages to persons aggrieved as described in subdivision (a) and for the assessment of a civil penalty against each respondent. The civil penalty shall not exceed two thousand dollars (\$2,000) for an exclusively nonviolent first violation, and fifteen thousand dollars (\$15,000) for any other first violation, and shall not exceed five thousand dollars (\$5,000) for an exclusively nonviolent subsequent violation, and twenty-five thousand dollars (\$25,000) for any other subsequent violation. In imposing civil penalties pursuant to this subdivision, the court shall consider a prior violation of the federal Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248), or a prior violation of a statute of another jurisdiction that would constitute a violation of Section 423.2 or the federal Freedom of Access to Clinic Entrances Act of 1994, to be a prior violation of Section 423.2.

(c) No person shall be found liable under this section for conduct in violation of Section 423.2 done on a particular occasion where the identical conduct on that occasion was the basis for a finding of liability by that person under the federal Freedom of Access to Clinic Entrances Act

of 1994 (18 U.S.C. Sec. 248).

Cal. Penal Code § 423.4 (Deering, Lexis Advance through the 2022 Regular Session)

§ 423.5. Court action to protect witnesses and victims

(a)

(1) The court in which a criminal or civil proceeding is filed for a violation of subdivision (a), (c), or (e) of Section 423.2 shall take all action reasonably required, including granting restraining orders, to safeguard the health, safety, or privacy of either of the following:

(A) A reproductive health services client, provider, or assistant who is a party or witness in the proceeding.

(B) A person who is a victim of, or at risk of becoming a victim of, conduct prohibited by subdivision (a), (c), or (e) of Section 423.2.

(2) The court in which a criminal or civil proceeding is filed for a violation of subdivision (b), (d), or (f) of Section 423.2 shall take all action reasonably required, including granting restraining orders, to safeguard the health, safety, or privacy of either of the following:

(A) A person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship.

(B) An entity that owns or operates a place of religious worship.

(b) Restraining orders issued pursuant to paragraph (1) of subdivision (a) may include provisions prohibiting or restricting the photographing of persons described in subparagraphs (A) and (B) of paragraph (1) of subdivision (a) when reasonably required to safeguard the health, safety, or privacy of those persons. Restraining orders issued pursuant to paragraph (2) of subdivision (a) may include provisions prohibiting or restricting the photographing of persons described in subparagraphs (A) and (B) of paragraph (2) of subdivision (a) when reasonably required to safeguard the health, safety, or privacy of those persons.

(c) A court may, in its discretion, permit an individual described in subparagraph (A) or (B) of paragraph (1) of subdivision (a) to use a pseudonym in a civil proceeding described in paragraph (1) of subdivision (a) when reasonably required to safeguard the health, safety, or privacy of those persons. A court may, in its discretion, permit an individual described in subparagraph (A) or (B) of paragraph (2) of subdivision (a) to use a pseudonym in a civil proceeding described in paragraph (2) of subdivision (a) when reasonably required to safeguard the health, safety, or privacy of those persons.

Cal. Penal Code § 423.5 (Deering, Lexis Advance through the 2022 Regular Session)

§ 423.6. Construction of title

This title shall not be construed for any of the following purposes:

(a) To impair any constitutionally protected activity, or any activity protected by the laws of California or of the United States of America.

(b) To provide exclusive civil or criminal remedies or to preempt or to preclude any county, city, or city and county from passing any law to provide a remedy for the commission of any of the acts prohibited by this title or to make any of those acts a crime.

(c) To interfere with the enforcement of any federal, state, or local laws regulating the performance of abortions or the provision of other reproductive health services.

(d) To negate, supercede, or otherwise interfere with the operation of any provision of Chapter 10 (commencing with Section 1138) of Part 3 of Division 2 of the Labor Code.

(e) To create additional civil or criminal remedies or to limit any existing civil or criminal remedies to redress an activity that interferes with the exercise of any other rights protected by the First Amendment to the United States Constitution or of Article I of the California Constitution.

(f) To preclude prosecution under both this title and any other provision of law, except as provided in subdivision (g) of Section 423.3.

Cal. Penal Code § 423.6 (Deering, Lexis Advance through the 2022 Regular Session)

Deering's California Codes Annotated

PENAL CODE (§§ 1-34370)

Part 2 Of Criminal Procedure (§§ 68 -1620)

Title 12 Of Special Proceedings of a Criminal Nature (Chs. 1-5)

Chapter 3.6 Electronic Communications Privacy Act (§§ 1546-1546.5)

§ 1546.5. Restrictions on electronic communications services corporation compliance with out-of-state legal process regarding prohibited violation as defined in Section 629.51; Civil action to compel compliance; Liability

(a) A California corporation or a corporation whose principal executive offices are located in California that provides electronic communications services shall not, in California, provide records, information, facilities, or assistance in accordance with the terms of a warrant, court order, subpoena, wiretap order, pen register trap and trace order, or other legal process issued by, or pursuant to, the procedures of another state or a political subdivision thereof that relates to an investigation into or enforcement of a prohibited violation, as defined in Section 629.51.

(b) The Attorney General may commence a civil action to compel any California corporation or a corporation whose principal executive offices are located in California that provides electronic communications services to comply with the provisions of this section.

(c) A California corporation or a corporation whose principal executive offices are located in California, and its officers, employees, and agents, are not subject to any cause of action for providing records, information, facilities, or assistance in accordance with the terms of a warrant, court order, subpoena, wiretap order, pen register trap and trace order, or other legal process issued by, or pursuant to, the procedures of another state or a political subdivision thereof, except where the corporation knew or should have known that the warrant, court order, subpoena, wiretap order, pen register trap and trace order, or other legal process relates to an investigation into or enforcement of a prohibited violation, as defined in Section 629.51.

Cal. Penal Code § 1546.5 (Deering, Lexis Advance through the 2022 Regular Session)

Deering's California Codes Annotated

PENAL CODE (§§ 1-34370)

Part 1 Of Crimes and Punishments (Titles 1-17)

Title 15 Miscellaneous Crimes (Chs. 1-4)

Chapter 1.4 Interception of Wire, Electronic Digital Pager, or Electronic Cellular Telephone Communications [Repealed effective January 1, 2025] (§§ 629.50- 629.98)

§ 629.51. Definitions [Repealed effective January 1, 2025]

- (a) For the purposes of this chapter, the following terms have the following meanings:
- (1) “Wire communication” means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception (including the use of a like connection in a switching station), furnished or operated by any person engaged in providing or operating these facilities for the transmission of communications.
- (2) “Electronic communication” means any transfer of signs, signals, writings, images, sounds, data, or intelligence of any nature in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system, but does not include any of the following:
- (A) Any wire communication defined in paragraph (1).
- (B) Any communication made through a tone-only paging device.
- (C) Any communication from a tracking device.
- (D) Electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds.
- (3) “Tracking device” means an electronic or mechanical device that permits the tracking of the movement of a person or object.
- (4) “Aural transfer” means a transfer containing the human voice at any point between and including the point of origin and the point of reception.
- (5)
- (A) “Prohibited violation” means any violation of law that creates liability for, or arising out of, either of the following:
- (i) Providing, facilitating, or obtaining an abortion that is lawful under California law.
- (ii) Intending or attempting to provide, facilitate, or obtain an abortion that is lawful under California law.
- (B) As used in this paragraph, “facilitating” or “facilitate” means assisting, directly or indirectly in any way, with the obtaining of an abortion that is lawful under California law.
- (b) This chapter applies to the interceptions of wire and electronic communications. It does not apply to stored communications or stored content.
- (c) The act that added this subdivision is not intended to change the law as to stored communications or stored content.
- Cal. Penal Code § 629.51 (Deering, Lexis Advance through the 2022 Regular Session)

Deering’s California Codes Annotated

PENAL CODE (§§ 1-34370)

Part 4 Prevention of Crimes and Apprehension of Criminals (Titles 1-13)

Title 5.7 Reproductive Rights Law Enforcement Act (§§ 13775-13779)

§ 13775. Citation of title

This title shall be known and may be cited as the Reproductive Rights Law Enforcement Act.
Cal. Penal Code § 13775 (Deering, Lexis Advance through the 2022 Regular Session)

§ 13776. Definitions

The following definitions apply for the purposes of this title:

(a) “Anti-reproductive-rights crime” means a crime committed partly or wholly because the victim is a reproductive health services patient, provider, or assistant, or a crime that is partly or wholly intended to intimidate the victim, any other person or entity, or a class of persons or entities from becoming or remaining a reproductive health services patient, provider, or assistant. “Anti-reproductive-rights crime” includes, but is not limited to, a violation of subdivision (a), (c), (g), or (h) of Section 423.2.

(b) “Subject matter experts” includes, but is not limited to, the Commission on the Status of Women and Girls, law enforcement agencies experienced with anti-reproductive-rights crimes, including the Attorney General and the Department of Justice, and organizations such as the American Civil Liberties Union, the American College of Obstetricians and Gynecologists, the American Academy of Family Physicians, the California Council of Churches, the California Medical Association, the Feminist Majority Foundation, NARAL Pro-Choice California, the National Abortion Federation, the California National Organization for Women, the Planned Parenthood Federation of America, Planned Parenthood Affiliates of California, and the Women’s Health Specialists clinic that represent reproductive health services clients, providers, and assistants.

(c) “Crime of violence,” “nonviolent,” “reproductive health services,” “reproductive health services patient, provider, or assistant,” and “reproductive health services facility” each has the same meaning as set forth in Section 423.1.

Cal. Penal Code § 13776 (Deering, Lexis Advance through the 2022 Regular Session)

§ 13777. Responsibilities of attorney general

(a) The Attorney General shall do each of the following:

(1) Collect information relating to anti-reproductive-rights crimes, including, but not limited to, the threatened commission of these crimes and persons suspected of committing these crimes or making these threats.

(2) Direct local law enforcement agencies to provide to the Department of Justice, in a manner that the Attorney General prescribes, all of the following on an annual basis:

(A) The total number of anti-reproductive-rights crime-related calls for assistance made to the department:

(B) The total number of arrests for anti-reproductive-rights crimes, reported by which subdivision of Section 423.2 is the basis for the arrest. The report of each crime that violates any other law shall note the code, section, and subdivision that prohibits the crime. The report of any crime that violates both Section 423.2 and any other law shall note both the subdivision of Section 423.2 and the other code, section, and subdivision that prohibits the crime.

(C) The total number of cases in which the district attorney charged an individual with a crime that violates Section 423.2, including the subdivision that prohibits the crime.

(3) Beginning January 1, 2023, report to the Legislature on an annual basis the information collected pursuant to paragraph (2).

(4) Develop a plan to prevent, apprehend, prosecute, and report anti-reproductive-rights crimes, and to carry out the legislative intent expressed in subdivisions (c), (d), (e), and (f) of Section 1 of the act that enacts this title in the 2001-02 Regular Session of the Legislature.

(b) In carrying out their responsibilities under this section, the Attorney General shall consult the Governor, the Commission on Peace Officer Standards and Training, and other subject matter experts.

Cal Pen Code § 13777

§ 13777.2. Advisory committee; Report

(a) The Commission on the Status of Women and Girls shall convene an advisory committee consisting of one person appointed by the Attorney General and one person appointed by each of the organizations named in subdivision (b) of Section 13776 that chooses to appoint a member, and any other subject matter experts the commission appoints. The advisory committee shall elect its chair and any other officers of its choice.

(b) The advisory committee shall make two reports, the first by December 31, 2025, and the second by December 31, 2029, to the Committees on Health, Judiciary, and Public Safety of the Senate and Assembly, to the Attorney General, the Commission on Peace Officer Standards and Training, and the Commission on the Status of Women and Girls. The reports shall evaluate the implementation of Chapter 899 of the Statutes of 2001 and any subsequent amendments made to this title and the effectiveness of the plan developed by the Attorney General pursuant to paragraph (4) of subdivision (a) of Section 13777. The reports shall also include recommendations regarding any other legislation, and recommendations for any other actions by the Attorney General, Commission on Peace Officer Standards and Training, or the Commission on the Status of Women and Girls.

(c) The Commission on the Status of Women and Girls shall transmit the reports of the advisory committee to the appropriate committees of the Legislature, including, but not limited to, the Committees on Health, Judiciary, and Public Safety in the Senate and Assembly, and make the reports available to the public, including by posting them on the Commission on the Status of Women and Girls' internet website. To avoid production and distribution costs, the Commission on the Status of Women and Girls may submit the reports electronically or as part of any other report that the Commission on the Status of Women and Girls submits to the Legislature.

(d) The Commission on Peace Officer Standards and Training shall make the most updated version of the telecourse that it produced in 2002 pursuant to subdivision (a) of Section 13778 available to the advisory committee. However, before providing the updated telecourse to the advisory committee or otherwise making it public, the commission shall remove the name and face of any person who appears in the telecourse as originally produced who informs the commission in writing that the person has a reasonable apprehension that making the telecourse public without the removal will endanger the person's life or physical safety.

(e) This section does not require a state agency to pay for compensation, travel, or other expenses of any advisory committee member

Cal. Penal Code § 13777.2 (Deering, Lexis Advance through the 2022 Regular Session)

§13778. Telecourse for training on anti-reproductive-rights crimes; Distribution of training bulletins via internet

(a) The Commission on Peace Officer Standards and Training, utilizing available resources, shall develop and, subject to an appropriation of funds for this purpose in the annual Budget Act or other statute, update every seven years, or on a more frequent basis if deemed necessary by either

the Commission on the Status of Women and Girls or the Attorney General, an interactive training course on anti-reproductive-rights crimes and make the telecourse available to all California law enforcement agencies through an online portal or platform.

(b) Persons and organizations, including, but not limited to, subject-matter experts, may make application to the commission, as outlined in Article 3 (commencing with Section 1051) of Division 2 of Title 11 of the California Code of Regulations, for certification of a course designed to train law enforcement officers to carry out the legislative intent expressed in paragraph (1) of subdivision (d) of Section 1 of the act that enacts this title in the 2001-02 Regular Session.

(c) In developing the telecourse required by subdivision (a), and in considering any applications pursuant to subdivision (b), the commission, utilizing available resources, shall consult the Attorney General and other subject matter experts, except where a subject matter expert has submitted, or has an interest in, an application pursuant to subdivision (b).

(d) In addition to producing and making available the telecourse described in subdivision (a), the commission shall distribute, as necessary, training bulletins, via the Cal. Penal Code § 13778 (Deering, Lexis Advance through the 2022 Regular Session)

§ 13778.1. Responses to anti-reproductive-rights calls

Every law enforcement agency in this state shall develop, adopt, and implement written policies and standards for officers' responses to anti-reproductive-rights calls by January 1, 2023.
Cal. Penal Code § 13778.1 (Deering, Lexis Advance through the 2022 Regular Session)

§ 13778.2. Abortions lawful in this state; Arrest prohibitions; Cooperation with another state; Conflicting laws of another state against public policy; Subpoenas for out of state proceedings

(a) A state or local law enforcement agency or officer shall not knowingly arrest or knowingly participate in the arrest of any person for performing, supporting, or aiding in the performance of an abortion in this state, or obtaining an abortion in this state, if the abortion is lawful under the laws of this state.

(b) A state or local public agency, or any employee thereof acting in their official capacity, shall not cooperate with or provide information to any individual or agency or department from another state or, to the extent permitted by federal law, to a federal law enforcement agency regarding an abortion that is lawful under the laws of this state and that is performed in this state.

(c)

(1) A law of another state that authorizes the imposition of civil or criminal penalties related to an individual performing, supporting, or aiding in the performance of an abortion in this state, or an individual obtaining an abortion in this state, if the abortion is lawful under the laws of this state, is against the public policy of this state.

(2) No state court, judicial officer, or court employee or clerk, or authorized attorney shall issue a subpoena pursuant to any state law in connection with a proceeding in another state regarding an individual performing, supporting, or aiding in the performance of an abortion in this state, or an individual obtaining an abortion in this state, if the abortion is lawful under the laws of this state.

(d) This section does not prohibit the investigation of any criminal activity in this state that may involve the performance of an abortion, provided that information relating to any medical

procedure performed on a specific individual is not shared with an agency or individual from another state for the purpose of enforcing another state's abortion law.

Cal. Penal Code § 13778.2 (Deering, Lexis Advance through the 2022 Regular Session)

California AB 1242 signed into law on September 27, 2022

<https://leginfo.legislature.ca.gov/faces/billPdf.xhtml>

AB-1242 Reproductive rights (2021-2022)

As Amends the Law Today

As Amends the Law on Sep 28, 2022

SECTION 1

The Legislature finds and declares all of the following:

(a) Existing law provides that every individual possesses a fundamental right of privacy with respect to their personal reproductive decisions.

(b) Accordingly, it is the public policy of the State of California that a corporation that is headquartered or incorporated in California that provides electronic communications services shall not provide records, information, facilities, or assistance in response to legal process issued by, or pursuant to, the procedures of another state or a subdivision thereof to investigate or enforce any violation, the investigation or enforcement of which would implicate the fundamental right of privacy with respect to personal reproductive decisions.

(c) California also has the sovereign power to determine whether to give legal effect to legal process in California.

SECTION 2

Section 629.51 of the Penal Code is amended to read:

629.51

(a) For the purposes of this chapter, the following terms have the following meanings:

(1) "Wire communication" means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception (including the use of a like connection in a switching station), furnished or operated by any person engaged in providing or operating these facilities for the transmission of communications.

(2) "Electronic communication" means any transfer of signs, signals, writings, images, sounds, data, or intelligence of any nature in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system, but does not include any of the following:

(A) Any wire communication defined in paragraph (1).

(B) Any communication made through a tone-only paging device.

(C) Any communication from a tracking device.

(D) Electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds.

(3) "Tracking device" means an electronic or mechanical device that permits the tracking of the movement of a person or object.

(4) "Aural transfer" means a transfer containing the human voice at any point between and including the point of origin and the point of reception.

(5) (A) “Prohibited violation” means any violation of law that creates liability for, or arising out of, either of the following:

- (i) Providing, facilitating, or obtaining an abortion that is lawful under California law.
- (ii) Intending or attempting to provide, facilitate, or obtain an abortion that is lawful under California law.

(B) As used in this paragraph, “facilitating” or “facilitate” means assisting, directly or indirectly in any way, with the obtaining of an abortion that is lawful under California law.

(b) This chapter applies to the interceptions of wire and electronic communications. It does not apply to stored communications or stored content.

(c) The act that added this subdivision is not intended to change the law as to stored communications or stored content.

SECTION 3

Section 629.52 of the Penal Code is amended to read:

629.52

Upon application made under Section 629.50, the judge may enter an ex parte order, as requested or modified, authorizing interception of wire or electronic communications initially intercepted within the territorial jurisdiction of the court in which the judge is sitting, if the judge determines, on the basis of the facts submitted by the applicant, all of the following:

- (a) There is probable cause to believe that an individual is committing, has committed, or is about to commit, one of the following offenses:
 - (1) Importation, possession for sale, transportation, manufacture, or sale of controlled substances in violation of Section 11351, 11351.5, 11352, 11370.6, 11378, 11378.5, 11379, 11379.5, or 11379.6 of the Health and Safety Code with respect to a substance containing heroin, cocaine, PCP, methamphetamine, fentanyl, or their precursors or analogs where the substance exceeds 10 gallons by liquid volume or three pounds of solid substance by weight.
 - (2) Murder, solicitation to commit murder, a violation of Section 209, or the commission of a felony involving a destructive device in violation of Section 18710, 18715, 18720, 18725, 18730, 18740, 18745, 18750, or 18755.
 - (3) A felony violation of Section 186.22.
 - (4) A felony violation of Section 11418, relating to weapons of mass destruction, Section 11418.5, relating to threats to use weapons of mass destruction, or Section 11419, relating to restricted biological agents.
 - (5) A violation of Section 236.1.
 - (6) An attempt or conspiracy to commit any of the above-mentioned crimes.
- (b) There is probable cause to believe that particular communications concerning the illegal activities will be obtained through that interception, including, but not limited to, communications that may be utilized for locating or rescuing a kidnap victim.
- (c) There is probable cause to believe that the facilities from which, or the place where, the wire or electronic communications are to be intercepted are being used, or are about to be used, in connection with the commission of the offense, or are leased to, listed in the name of, or commonly used by the person whose communications are to be intercepted.
- (d) Normal investigative procedures have been tried and have failed or reasonably appear either unlikely to succeed if tried or too dangerous.

(e) Notwithstanding any other provision in this section, no magistrate shall enter an ex parte order authorizing interception of wire or electronic communications for the purpose of investigating or recovering evidence of a prohibited violation, as defined in Section 629.51.

SECTION 4

Section 638.50 of the Penal Code is amended to read:

638.50.

For purposes of this chapter, the following terms have the following meanings:

(a) “Wire communication” and “electronic communication” have the meanings set forth in subdivision (a) of Section 629.51.

(b) “Pen register” means a device or process that records or decodes dialing, routing, addressing, or signaling information transmitted by an instrument or facility from which a wire or electronic communication is transmitted, but not the contents of a communication. “Pen register” does not include a device or process used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider, or a device or process used by a provider or customer of a wire communication service for cost accounting or other similar purposes in the ordinary course of its business.

(c) “Trap and trace device” means a device or process that captures the incoming electronic or other impulses that identify the originating number or other dialing, routing, addressing, or signaling information reasonably likely to identify the source of a wire or electronic communication, but not the contents of a communication.

(d) “Prohibited violation” has the same meaning as that term is defined in Section 629.51.

SECTION 5

Section 638.52 of the Penal Code is amended to read:

638.52.

(a) A peace officer may make an application to a magistrate for an order or an extension of an order authorizing or approving the installation and use of a pen register or a trap and trace device. The application shall be in writing under oath or equivalent affirmation, and shall include the identity of the peace officer making the application and the identity of the law enforcement agency conducting the investigation. The applicant shall certify that the information likely to be obtained is relevant to an ongoing criminal investigation and shall include a statement of the offense to which the information likely to be obtained by the pen register or trap and trace device relates.

(b) The magistrate shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device if the magistrate finds that the information likely to be obtained by the installation and use of a pen register or a trap and trace device is relevant to an ongoing investigation and that there is probable cause to believe that the pen register or trap and trace device will lead to any of the following:

(1) Recovery of stolen or embezzled property.

(2) Property or things used as the means of committing a felony.

- (3) Property or things in the possession of a person with the intent to use them as a means of committing a public offense, or in the possession of another to whom they may have delivered them for the purpose of concealing them or preventing them from being discovered.
- (4) Evidence that tends to show a felony has been committed, or tends to show that a particular person has committed or is committing a felony.
- (5) Evidence that tends to show that sexual exploitation of a child, in violation of Section 311.3, or possession of matter depicting sexual conduct of a person under 18 years of age, in violation of Section 311.11, has occurred or is occurring.
- (6) The location of a person who is unlawfully restrained or reasonably believed to be a witness in a criminal investigation or for whose arrest there is probable cause.
- (7) Evidence that tends to show a violation of Section 3700.5 of the Labor Code, or tends to show that a particular person has violated Section 3700.5 of the Labor Code.
- (8) Evidence that does any of the following:
 - (A) Tends to show that a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code, has been committed or is being committed.
 - (B) Tends to show that a particular person has committed or is committing a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code.
 - (C) Will assist in locating an individual who has committed or is committing a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code.
- (c) Information acquired solely pursuant to the authority for a pen register or a trap and trace device shall not include any information that may disclose the physical location of the subscriber, except to the extent that the location may be determined from the telephone number. Upon the request of the person seeking the pen register or trap and trace device, the magistrate may seal portions of the application pursuant to *People v. Hobbs* (1994) 7 Cal.4th 948, and Sections 1040, 1041, and 1042 of the Evidence Code.
- (d) An order issued pursuant to subdivision (b) shall specify all of the following:
 - (1) The identity, if known, of the person to whom is leased or in whose name is listed the telephone line to which the pen register or trap and trace device is to be attached.
 - (2) The identity, if known, of the person who is the subject of the criminal investigation.
 - (3) The number and, if known, physical location of the telephone line to which the pen register or trap and trace device is to be attached and, in the case of a trap and trace device, the geographic limits of the trap and trace order.
 - (4) A statement of the offense to which the information likely to be obtained by the pen register or trap and trace device relates.
 - (5) The order shall direct, if the applicant has requested, the furnishing of information, facilities, and technical assistance necessary to accomplish the installation of the pen register or trap and trace device.
- (e) An order issued under this section shall authorize the installation and use of a pen register or a trap and trace device for a period not to exceed 60 days.
- (f) Extensions of the original order may be granted upon a new application for an order under subdivisions (a) and (b) if the officer shows that there is a continued probable cause that the information or items sought under this subdivision are likely to be obtained under the extension. The period of an extension shall not exceed 60 days.

(g) An order or extension order authorizing or approving the installation and use of a pen register or a trap and trace device shall direct that the order be sealed until the order, including any extensions, expires, and that the person owning or leasing the line to which the pen register or trap and trace device is attached not disclose the existence of the pen register or trap and trace device or the existence of the investigation to the listed subscriber or to any other person.

(h) Upon the presentation of an order, entered under subdivisions (b) or (f), by a peace officer authorized to install and use a pen register, a provider of wire or electronic communication service, landlord, custodian, or other person shall immediately provide the peace officer all information, facilities, and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the services provided to the party with respect to whom the installation and use is to take place, if the assistance is directed by the order.

(i) Upon the request of a peace officer authorized to receive the results of a trap and trace device, a provider of a wire or electronic communication service, landlord, custodian, or other person shall immediately install the device on the appropriate line and provide the peace officer all information, facilities, and technical assistance, including installation and operation of the device unobtrusively and with a minimum of interference with the services provided to the party with respect to whom the installation and use is to take place, if the installation and assistance is directed by the order.

(j) A provider of a wire or electronic communication service, landlord, custodian, or other person who provides facilities or technical assistance pursuant to this section shall be reasonably compensated by the requesting peace officer's law enforcement agency for the reasonable expenses incurred in providing the facilities and assistance.

(k) Unless otherwise ordered by the magistrate, the results of the pen register or trap and trace device shall be provided to the peace officer at reasonable intervals during regular business hours for the duration of the order.

(l) The magistrate, before issuing the order pursuant to subdivision (b), may examine on oath the person seeking the pen register or the trap and trace device, and any witnesses the person may produce, and shall take their affidavit or their affidavits in writing, and cause the affidavit or affidavits to be subscribed by the parties making them.

(m) Notwithstanding any other provision in this section, no magistrate shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device for the purpose of investigating or recovering evidence of a prohibited violation, as defined in Section 629.51.

SECTION 6

Section 1269b of the Penal Code is amended to read:

1269b.

(a) The officer in charge of a jail in which an arrested person is held in custody, an officer of a sheriff's department or police department of a city who is in charge of a jail or is employed at a fixed police or sheriff's facility and is acting under an agreement with the agency that keeps the jail in which an arrested person is held in custody, an employee of a sheriff's department or police department of a city who is assigned by the department to collect bail, the clerk of the superior court of the county in which the offense was alleged to have been committed, and the clerk of the superior court in which the case against the defendant is pending may approve and

accept bail in the amount fixed by the warrant of arrest, schedule of bail, or order admitting to bail in cash or surety bond executed by a certified, admitted surety insurer as provided in the Insurance Code, to issue and sign an order for the release of the arrested person, and to set a time and place for the appearance of the arrested person before the appropriate court and give notice thereof.

(b) If a defendant has appeared before a judge of the court on the charge contained in the complaint, indictment, or information, the bail shall be in the amount fixed by the judge at the time of the appearance. If that appearance has not been made, the bail shall be in the amount fixed in the warrant of arrest or, if no warrant of arrest has been issued, the amount of bail shall be pursuant to the uniform countywide schedule of bail for the county in which the defendant is required to appear, previously fixed and approved as provided in subdivisions (c) and (d).

(c) It is the duty of the superior court judges in each county to prepare, adopt, and annually revise a uniform countywide schedule of bail for all bailable felony offenses and for all misdemeanor and infraction offenses except Vehicle Code infractions. The penalty schedule for infraction violations of the Vehicle Code shall be established by the Judicial Council in accordance with Section 40310 of the Vehicle Code.

(d) A court may, by local rule, prescribe the procedure by which the uniform countywide schedule of bail is prepared, adopted, and annually revised by the judges. If a court does not adopt a local rule, the uniform countywide schedule of bail shall be prepared, adopted, and annually revised by a majority of the judges.

(e) In adopting a uniform countywide schedule of bail for all bailable felony offenses the judges shall consider the seriousness of the offense charged. In considering the seriousness of the offense charged the judges shall assign an additional amount of required bail for each aggravating or enhancing factor chargeable in the complaint, including, but not limited to, additional bail for charges alleging facts that would bring a person within any of the following sections: Section 667.5, 667.51, 667.6, 667.8, 667.85, 667.9, 667.10, 12022, 12022.1, 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.6, 12022.7, 12022.8, or 12022.9 of this code, or Section 11356.5, 11370.2, or 11370.4 of the Health and Safety Code.

In considering offenses in which a violation of Chapter 6 (commencing with Section 11350) of Division 10 of the Health and Safety Code is alleged, the judge shall assign an additional amount of required bail for offenses involving large quantities of controlled substances.

(f) (1) The countywide bail schedule shall contain a list of the offenses and the amounts of bail applicable for each as the judges determine to be appropriate. If the schedule does not list all offenses specifically, it shall contain a general clause for designated amounts of bail as the judges of the county determine to be appropriate for all the offenses not specifically listed in the schedule. A copy of the countywide bail schedule shall be sent to the officer in charge of the county jail, to the officer in charge of each city jail within the county, to each superior court judge and commissioner in the county, and to the Judicial Council.

(2) The countywide bail schedule shall set zero dollars (\$0) bail for an individual who has been arrested in connection with a proceeding in another state regarding an individual performing, supporting, or aiding in the performance of an abortion in this state, or an individual obtaining an abortion in this state, if the abortion is lawful under the laws of this state.

(g) Upon posting bail, the defendant or arrested person shall be discharged from custody as to the offense on which the bail is posted.

All money and surety bonds so deposited with an officer authorized to receive bail shall be transmitted immediately to the judge or clerk of the court by which the order was made or

warrant issued or bail schedule fixed. If, in the case of felonies, an indictment is filed, the judge or clerk of the court shall transmit all of the money and surety bonds to the clerk of the court.

(h) If a defendant or arrested person so released fails to appear at the time and in the court so ordered upon their release from custody, Sections 1305 and 1306 apply.

SECTION 7

Section 1524 of the Penal Code is amended to read:

1524.

(a) A search warrant may be issued upon any of the following grounds:

(1) When the property was stolen or embezzled.

(2) When the property or things were used as the means of committing a felony.

(3) When the property or things are in the possession of any person with the intent to use them as a means of committing a public offense, or in the possession of another to whom that person may have delivered them for the purpose of concealing them or preventing them from being discovered.

(4) When the property or things to be seized consist of an item or constitute evidence that tends to show a felony has been committed, or tends to show that a particular person has committed a felony.

(5) When the property or things to be seized consist of evidence that tends to show that sexual exploitation of a child, in violation of Section 311.3, or possession of matter depicting sexual conduct of a person under 18 years of age, in violation of Section 311.11, has occurred or is occurring.

(6) When there is a warrant to arrest a person.

(7) When a provider of electronic communication service or remote computing service has records or evidence, as specified in Section 1524.3, showing that property was stolen or embezzled constituting a misdemeanor, or that property or things are in the possession of any person with the intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom that person may have delivered them for the purpose of concealing them or preventing their discovery.

(8) When the property or things to be seized include an item or evidence that tends to show a violation of Section 3700.5 of the Labor Code, or tends to show that a particular person has violated Section 3700.5 of the Labor Code.

(9) When the property or things to be seized include a firearm or other deadly weapon at the scene of, or at the premises occupied or under the control of the person arrested in connection with, a domestic violence incident involving a threat to human life or a physical assault as provided in Section 18250. This section does not affect warrantless seizures otherwise authorized by Section 18250.

(10) When the property or things to be seized include a firearm or other deadly weapon that is owned by, or in the possession of, or in the custody or control of, a person described in subdivision (a) of Section 8102 of the Welfare and Institutions Code.

(11) When the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to Section 6389 of the Family Code, if a prohibited firearm is possessed, owned, in the custody of, or controlled by a person against whom a protective order

has been issued pursuant to Section 6218 of the Family Code, the person has been lawfully served with that order, and the person has failed to relinquish the firearm as required by law.

(12) When the information to be received from the use of a tracking device constitutes evidence that tends to show that either a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code has been committed or is being committed, tends to show that a particular person has committed a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code, or is committing a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code, or will assist in locating an individual who has committed or is committing a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code. A tracking device search warrant issued pursuant to this paragraph shall be executed in a manner meeting the requirements specified in subdivision (b) of Section 1534.

(13) When a sample of the blood of a person constitutes evidence that tends to show a violation of Section 23140, 23152, or 23153 of the Vehicle Code and the person from whom the sample is being sought has refused an officer's request to submit to, or has failed to complete, a blood test as required by Section 23612 of the Vehicle Code, and the sample will be drawn from the person in a reasonable, medically approved manner. This paragraph is not intended to abrogate a court's mandate to determine the propriety of the issuance of a search warrant on a case-by-case basis.

(14) Beginning January 1, 2016, the property or things to be seized are firearms or ammunition or both that are owned by, in the possession of, or in the custody or control of a person who is the subject of a gun violence restraining order that has been issued pursuant to Division 3.2 (commencing with Section 18100) of Title 2 of Part 6, if a prohibited firearm or ammunition or both is possessed, owned, in the custody of, or controlled by a person against whom a gun violence restraining order has been issued, the person has been lawfully served with that order, and the person has failed to relinquish the firearm as required by law.

(15) Beginning January 1, 2018, the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to Section 29800 or 29805, and the court has made a finding pursuant to subdivision (c) of Section 29810 that the person has failed to relinquish the firearm as required by law.

(16) When the property or things to be seized are controlled substances or a device, contrivance, instrument, or paraphernalia used for unlawfully using or administering a controlled substance pursuant to the authority described in Section 11472 of the Health and Safety Code.

(17) (A) When all of the following apply:

(i) A sample of the blood of a person constitutes evidence that tends to show a violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code.

(ii) The person from whom the sample is being sought has refused an officer's request to submit to, or has failed to complete, a blood test as required by Section 655.1 of the Harbors and Navigation Code.

(iii) The sample will be drawn from the person in a reasonable, medically approved manner.

(B) This paragraph is not intended to abrogate a court's mandate to determine the propriety of the issuance of a search warrant on a case-by-case basis.

(18) When the property or things to be seized consists of evidence that tends to show that a violation of paragraph (1), (2), or (3) of subdivision (j) of Section 647 has occurred or is occurring.

(19) (A) When the property or things to be seized are data, from a recording device installed by the manufacturer of a motor vehicle, that constitutes evidence that tends to show the commission of a felony or misdemeanor offense involving a motor vehicle, resulting in death or serious bodily injury to any person. The data accessed by a warrant pursuant to this paragraph shall not exceed the scope of the data that is directly related to the offense for which the warrant is issued.

(B) For the purposes of this paragraph, “recording device” has the same meaning as defined in subdivision (b) of Section 9951 of the Vehicle Code. The scope of the data accessible by a warrant issued pursuant to this paragraph shall be limited to the information described in subdivision (b) of Section 9951 of the Vehicle Code.

(C) For the purposes of this paragraph, “serious bodily injury” has the same meaning as defined in paragraph (4) of subdivision (f) of Section 243 of the Penal Code.

(20) When the property or things to be seized consists of evidence that tends to show that a violation of Section 647.9 has occurred or is occurring. Evidence to be seized pursuant to this paragraph shall be limited to evidence of a violation of Section 647.9 and shall not include evidence of a violation of a departmental rule or guideline that is not a public offense under California law.

(b) The property, things, person, or persons described in subdivision (a) may be taken on the warrant from any place, or from any person in whose possession the property or things may be.

(c) Notwithstanding subdivision (a) or (b), a search warrant shall not be issued for any documentary evidence in the possession or under the control of any person who is a lawyer as defined in Section 950 of the Evidence Code, a physician as defined in Section 990 of the Evidence Code, a psychotherapist as defined in Section 1010 of the Evidence Code, or a member of the clergy as defined in Section 1030 of the Evidence Code, and who is not reasonably suspected of engaging or having engaged in criminal activity related to the documentary evidence for which a warrant is requested unless the following procedure has been complied with:

(1) At the time of the issuance of the warrant, the court shall appoint a special master in accordance with subdivision (d) to accompany the person who will serve the warrant. Upon service of the warrant, the special master shall inform the party served of the specific items being sought and that the party shall have the opportunity to provide the items requested. If the party, in the judgment of the special master, fails to provide the items requested, the special master shall conduct a search for the items in the areas indicated in the search warrant.

(2) (A) If the party who has been served states that an item or items should not be disclosed, they shall be sealed by the special master and taken to court for a hearing.

(B) At the hearing, the party searched shall be entitled to raise any issues that may be raised pursuant to Section 1538.5 as well as a claim that the item or items are privileged, as provided by law. The hearing shall be held in the superior court. The court shall provide sufficient time for the parties to obtain counsel and make motions or present evidence. The hearing shall be held within three days of the service of the warrant unless the court makes a finding that the expedited hearing is impracticable. In that case, the matter shall be heard at the earliest possible time.

(C) If an item or items are taken to court for a hearing, any limitations of time prescribed in Chapter 2 (commencing with Section 799) of Title 3 of Part 2 shall be tolled from the time of the seizure until the final conclusion of the hearing, including any associated writ or appellate proceedings.

(3) The warrant shall, whenever practicable, be served during normal business hours. In addition, the warrant shall be served upon a party who appears to have possession or control of the items

sought. If, after reasonable efforts, the party serving the warrant is unable to locate the person, the special master shall seal and return to the court, for determination by the court, any item that appears to be privileged as provided by law.

(d) (1) As used in this section, a “special master” is an attorney who is a member in good standing of the California State Bar and who has been selected from a list of qualified attorneys that is maintained by the State Bar particularly for the purposes of conducting the searches described in this section. These attorneys shall serve without compensation. A special master shall be considered a public employee, and the governmental entity that caused the search warrant to be issued shall be considered the employer of the special master and the applicable public entity, for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, relating to claims and actions against public entities and public employees. In selecting the special master, the court shall make every reasonable effort to ensure that the person selected has no relationship with any of the parties involved in the pending matter. Information obtained by the special master shall be confidential and may not be divulged except in direct response to inquiry by the court.

(2) In any case in which the magistrate determines that, after reasonable efforts have been made to obtain a special master, a special master is not available and would not be available within a reasonable period of time, the magistrate may direct the party seeking the order to conduct the search in the manner described in this section in lieu of the special master.

(e) Any search conducted pursuant to this section by a special master may be conducted in a manner that permits the party serving the warrant or that party’s designee to accompany the special master as the special master conducts the search. However, that party or that party’s designee may not participate in the search nor shall they examine any of the items being searched by the special master except upon agreement of the party upon whom the warrant has been served.

(f) As used in this section, “documentary evidence” includes, but is not limited to, writings, documents, blueprints, drawings, photographs, computer printouts, microfilms, x-rays, files, diagrams, ledgers, books, tapes, audio and video recordings, films, and papers of any type or description.

(g) No warrant shall issue for any item or items described in Section 1070 of the Evidence Code.

(h) No warrant shall issue for any item or items that pertain to an investigation into a prohibited violation, as defined in Section 629.51.

(i) Notwithstanding any other law, no claim of attorney work product as described in Chapter 4 (commencing with Section 2018.010) of Title 4 of Part 4 of the Code of Civil Procedure shall be sustained where there is probable cause to believe that the lawyer is engaging or has engaged in criminal activity related to the documentary evidence for which a warrant is requested unless it is established at the hearing with respect to the documentary evidence seized under the warrant that the services of the lawyer were not sought or obtained to enable or aid anyone to commit or plan to commit a crime or a fraud.

(j) Nothing in this section is intended to limit an attorney’s ability to request an in-camera hearing pursuant to the holding of the Supreme Court of California in *People v. Superior Court (Laff)* (2001) 25 Cal.4th 703.

(k) In addition to any other circumstance permitting a magistrate to issue a warrant for a person or property in another county, when the property or things to be seized consist of any item or constitute evidence that tends to show a violation of Section 530.5, the magistrate may issue a

warrant to search a person or property located in another county if the person whose identifying information was taken or used resides in the same county as the issuing court.

(l) This section shall not be construed to create a cause of action against any foreign or California corporation, its officers, employees, agents, or other specified persons for providing location information.

SECTION 8

Section 1524.2 of the Penal Code is amended to read:

1524.2.

(a) As used in this section, the following terms have the following meanings:

(1) The terms “electronic communication services” and “remote computing services” shall be construed in accordance with the Electronic Communications Privacy Act of 1986 in Chapter 121 (commencing with Section 2701) of Part I of Title 18 of the United States Code. This section does not apply to corporations that do not provide those services to the general public.

(2) An “adverse result” occurs when notification of the existence of a search warrant results in:

(A) Danger to the life or physical safety of an individual.

(B) A flight from prosecution.

(C) The destruction of or tampering with evidence.

(D) The intimidation of potential witnesses.

(E) Serious jeopardy to an investigation or undue delay of a trial.

(3) “Applicant” refers to the peace officer to whom a search warrant is issued pursuant to subdivision (a) of Section 1528.

(4) “California corporation” refers to any corporation or other entity that is subject to Section 102 of the Corporations Code, excluding foreign corporations.

(5) “Foreign corporation” refers to any corporation that is qualified to do business in this state pursuant to Section 2105 of the Corporations Code.

(6) “Properly served” means that a search warrant has been delivered by hand, or in a manner reasonably allowing for proof of delivery if delivered by United States mail, overnight delivery service, or facsimile to a person or entity listed in Section 2110 of the Corporations Code, or any other means specified by the recipient of the search warrant, including email or submission via an internet web portal that the recipient has designated for the purpose of service of process.

(b) The following provisions apply to any search warrant issued pursuant to this chapter allowing a search for records that are in the actual or constructive possession of a foreign corporation that provides electronic communication services or remote computing services to the general public, where those records would reveal the identity of the customers using those services, data stored by, or on behalf of, the customer, the customer’s usage of those services, the recipient or destination of communications sent to or from those customers, or the content of those communications.

(1) When properly served with a search warrant issued by the California court, a foreign corporation subject to this section shall provide to the applicant, all records sought pursuant to that warrant within five business days of receipt, including those records maintained or located outside this state.

(2) If the applicant makes a showing and the magistrate finds that failure to produce records within less than five business days would cause an adverse result, the warrant may require production of records within less than five business days. A court may reasonably extend the

time required for production of the records upon finding that the foreign corporation has shown good cause for that extension and that an extension of time would not cause an adverse result.

(3) A foreign corporation seeking to quash the warrant must seek relief from the court that issued the warrant within the time required for production of records pursuant to this section. The issuing court shall hear and decide that motion no later than five court days after the motion is filed.

(4) The foreign corporation shall verify the authenticity of records that it produces by providing an affidavit that complies with the requirements set forth in Section 1561 of the Evidence Code. Those records shall be admissible in evidence as set forth in Section 1562 of the Evidence Code.

(c) (1) A California corporation that provides electronic communication services or remote computing services to the general public, when served with a warrant issued by another state to produce records that would reveal the identity of the customers using those services, data stored by, or on behalf of, the customer, the customer's usage of those services, the recipient or destination of communications sent to or from those customers, or the content of those communications, shall produce those records as if that warrant had been issued by a California court, but shall not produce records when the corporation knows or should know that the warrant relates to an investigation into, or enforcement of, a prohibited violation, as defined in Section 629.51.

(2) A California corporation shall not comply with subdivision (c) unless the warrant includes, or is accompanied by, an attestation that the evidence sought is not related to an investigation into, or enforcement of, a prohibited violation, as defined in Section 629.51.

(3) A California corporation served with a warrant described in paragraph (1) is entitled to rely on the representations made in an attestation described in paragraph (2) in determining whether the warrant relates to an investigation into, or enforcement of, a prohibited violation, as defined in Section 629.51.

(d) A cause of action shall not lie against any foreign or California corporation subject to this section, its officers, employees, agents, or other specified persons for providing records, information, facilities, or assistance in accordance with the terms of a warrant issued pursuant to this chapter.

SECTION 9

Section 1546.5 is added to the Penal Code, to read:

1546.5.

(a) A California corporation or a corporation whose principal executive offices are located in California that provides electronic communications services shall not, in California, provide records, information, facilities, or assistance in accordance with the terms of a warrant, court order, subpoena, wiretap order, pen register trap and trace order, or other legal process issued by, or pursuant to, the procedures of another state or a political subdivision thereof that relates to an investigation into or enforcement of a prohibited violation, as defined in Section 629.51.

(b) The Attorney General may commence a civil action to compel any California corporation or a corporation whose principal executive offices are located in California that provides electronic communications services to comply with the provisions of this section.

(c) A California corporation or a corporation whose principal executive offices are located in California, and its officers, employees, and agents, are not subject to any cause of action for providing records, information, facilities, or assistance in accordance with the terms of a

warrant, court order, subpoena, wiretap order, pen register trap and trace order, or other legal process issued by, or pursuant to, the procedures of another state or a political subdivision thereof, except where the corporation knew or should have known that the warrant, court order, subpoena, wiretap order, pen register trap and trace order, or other legal process relates to an investigation into or enforcement of a prohibited violation, as defined in Section 629.51.

SECTION 10

Section 1551 of the Penal Code is amended to read:

1551.

(a) Whenever any person within this State is charged by a verified complaint before any magistrate of this State with the commission of any crime in any other State, or, with having been convicted of a crime in that State and having escaped from confinement, or having violated the terms of their bail, probation or parole or whenever complaint is made before any magistrate in this State setting forth on the affidavit of any credible person in another State that a crime has been committed in such other State and that the accused has been charged in such State with the commission of the crime, or that the accused has been convicted of a crime in that State and has escaped from bail, probation or parole and is believed to be in this State; then the magistrate shall issue a warrant directed to any peace officer commanding the officer to apprehend the person named therein, wherever the individual may be found in this State, and to bring them before the same or any other magistrate who is available in or convenient of access to the place where the arrest is made. A certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

(b) Within 24 hours of the filing of any verified complaint pursuant to this section, the filing agency shall transmit electronically to the Attorney General a complete copy of the verified complaint, the out-of-state indictment, information, complaint, or judgment, out-of-state warrant, and the affidavit upon which the out-of-state warrant was issued.

SECTION 11.

Section 13778.2 is added to the Penal Code, to read:

13778.2.

(a) A state or local law enforcement agency or officer shall not knowingly arrest or knowingly participate in the arrest of any person for performing, supporting, or aiding in the performance of an abortion in this state, or obtaining an abortion in this state, if the abortion is lawful under the laws of this state.

(b) A state or local public agency, or any employee thereof acting in their official capacity, shall not cooperate with or provide information to any individual or agency or department from another state or, to the extent permitted by federal law, to a federal law enforcement agency regarding an abortion that is lawful under the laws of this state and that is performed in this state.

(c) (1) A law of another state that authorizes the imposition of civil or criminal penalties related to an individual performing, supporting, or aiding in the performance of an abortion in this state, or an individual obtaining an abortion in this state, if the abortion is lawful under the laws of this state, is against the public policy of this state.

(2) No state court, judicial officer, or court employee or clerk, or authorized attorney shall issue a subpoena pursuant to any state law in connection with a proceeding in another state regarding an individual performing, supporting, or aiding in the performance of an abortion in this state, or an individual obtaining an abortion in this state, if the abortion is lawful under the laws of this state.

(d) This section does not prohibit the investigation of any criminal activity in this state that may involve the performance of an abortion, provided that information relating to any medical procedure performed on a specific individual is not shared with an agency or individual from another state for the purpose of enforcing another state's abortion law.

SECTION 12

The provisions of this measure are severable. If any provision of this measure 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.

SECTION 13

This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

*The impending United States Supreme Court decision overturning *Roe v. Wade* makes it necessary to protect California's health care providers and those seeking reproductive health care in California at the earliest time possible.*

Chapter 260 (SB 345)

An act to amend Section 2746.5 of, and to add Sections 850.1 and 852 to, the Business and Professions Code, to add Title 1.81.49 (commencing with Section 1798.99.90) and Title 1.81.7 (commencing with Section 1798.300) to Part 4 of Division 3 of the Civil Code, to amend Sections 762.020, 872.520, and 1710.50 of the Code of Civil Procedure, to amend Section 22171 of the Education Code, to amend Section 1317.1 of, to add Section 123468.5 to, and to repeal Section 123450 of, the Health and Safety Code, to amend Sections 187, 847.5, 1299.02, and 1334.2 of, and to add Sections 1549.15 and 13778.3 to, the Penal Code, to amend Sections 1003, 10954, 15405, and 19507 of the Probate Code, and to amend Section 11486.5 of the Welfare and Institutions Code, relating to health care services.

Approved by Governor, September 27, 2023. Filed with Secretary of State, September 27, 2023.

SECTION 1.

The Legislature finds and declares the following:

It is the intent of the Legislature that nothing herein shall be interpreted to undermine or decrease any existing protections under California law.

SEC. 2.

Section 850.1 is added to the Business and Professions Code, to read:

850.1.

(a) A healing arts board shall not deny an application for licensure or suspend, revoke, or otherwise impose discipline upon a licensee or health care practitioner subject to this division on the basis of a civil judgment, criminal conviction, or disciplinary action in another state if that judgment, conviction, or disciplinary action is based solely on the application of another state's law that interferes with a person's right to receive sensitive services that would be lawful if provided in this state, regardless of the patient's location.

(b) This section does not apply to a civil judgment, criminal conviction, or disciplinary action imposed in another state based upon conduct in another state that would subject an applicant, licensee, or health care practitioner subject to this division to a similar claim, charge, or action under the laws of this state.

(c) For purposes of this section:

(1) "Healing arts board" means any board, division, or examining committee in the Department of Consumer Affairs that licenses or certifies health professionals.

(2) "Sensitive services" has the same meaning as in Section 56.05 of the Civil Code.

SEC. 3.

Section 852 is added to the Business and Professions Code, to read:

852.

The performance, recommendation, or provision of any legally protected health care activity, as defined in Section 1798.300 of the Civil Code, by a licensee or a health care practitioner subject to this division acting within their scope of practice, for a patient who resides in a state in which the performance, recommendation, or provision of that legally protected health care activity is illegal, shall not, by itself, constitute professional misconduct under this division or any regulation governing the licensure, certification, or authorization of that licensee or practitioner, nor shall any license, certification, or authorization of a licensee or health care practitioner subject to this division be revoked, suspended, or annulled or otherwise subject to any other penalty or discipline provided in this division solely on the basis that the licensee or health care practitioner performed, recommended, or provided any legally protected health care activity for a patient who resides in a state in which the performance, recommendation, or provision of that legally protected health service is illegal.

SEC. 4.

Section 2746.5 of the Business and Professions Code is amended to read:

2746.5.

(a) The certificate to practice nurse-midwifery authorizes the holder to attend cases of low-risk pregnancy and childbirth and to provide prenatal, intrapartum, and postpartum care, including interconception care, family planning care, and immediate care for the newborn, consistent with the Core Competencies for Basic Midwifery Practice adopted by the American College of Nurse-Midwives, or its successor national professional organization, as approved by the board. For purposes of this subdivision, "low-risk pregnancy" means a pregnancy in which all of the following conditions are met:

(1) There is a single fetus.

(2) There is a cephalic presentation at onset of labor.

(3) The gestational age of the fetus is greater than or equal to 37 weeks and zero days and less than or equal to 42 weeks and zero days at the time of delivery.

(4) Labor is spontaneous or induced.

(5) The patient has no preexisting disease or condition, whether arising out of the pregnancy or otherwise, that adversely affects the pregnancy and that the certified nurse-midwife is not qualified to independently address consistent with this section.

(b) (1) The certificate to practice nurse-midwifery authorizes the holder to practice with a physician and surgeon under mutually agreed-upon policies and protocols that delineate the parameters for consultation, collaboration, referral, and transfer of a patient's care, signed by both the certified nurse-midwife and a physician and surgeon to do either of the following:

(A) Provide a patient with care that falls outside the scope of services specified in subdivision (a).

(B) Provide intrapartum care to a patient who has had a prior cesarean section or surgery that interrupts the myometrium.

(2) If a physician and surgeon assumes care of the patient, the certified nurse-midwife may continue to attend the birth of the newborn and participate in physical care, counseling, guidance, teaching, and support, as indicated by the mutually agreed-upon policies and protocols signed by both the certified nurse-midwife and a physician and surgeon.

(3) After a certified nurse-midwife refers a patient to a physician and surgeon, the certified nurse-midwife may continue care of the patient during a reasonable interval between the referral and the initial appointment with the physician and surgeon.

(c) (1) If a nurse-midwife does not have in place mutually agreed-upon policies and protocols that delineate the parameters for consultation, collaboration, referral, and transfer of a patient's care, signed by both the certified nurse-midwife and a physician and surgeon pursuant to paragraph (1) of subdivision (b), the patient shall be transferred to the care of a physician and surgeon to do either or both of the following:

(A) Provide a patient with care that falls outside the scope of services specified in subdivision (a).

(B) Provide intrapartum care to a patient who has had a prior cesarean section or surgery that interrupts the myometrium.

(2) After the certified nurse-midwife initiates the process of transfer pursuant to paragraph (1), for a patient who otherwise meets the definition of a low-risk pregnancy but no longer meets the criteria specified in paragraph (3) of subdivision (a) because the gestational age of the fetus is greater than 42 weeks and zero days, if there is inadequate time to effect safe transfer to a hospital prior to delivery or transfer may pose a threat to the health and safety of the patient or the fetus, the certified nurse-midwife may continue care of the patient consistent with the transfer plan described in subdivision (a) of Section 2746.54.

(3) A patient who has been transferred from the care of a certified nurse-midwife to that of a physician and surgeon may return to the care of the certified nurse-midwife after the physician and surgeon has determined that the condition or circumstance that required, or would require, the transfer from the care of the nurse-midwife pursuant to paragraph (1) is resolved.

(d) The certificate to practice nurse-midwifery authorizes the holder to attend pregnancy and childbirth in an out-of-hospital setting if consistent with subdivisions (a), (b), and (c).

(e) This section shall not be interpreted to deny a patient's right to self-determination or informed decisionmaking with regard to choice of provider or birth setting.

(f) The certificate to practice nurse-midwifery does not authorize the holder of the certificate to assist childbirth by vacuum or forceps extraction, or to perform any external cephalic version.

(g) A certified nurse-midwife shall document all consultations, referrals, and transfers in the patient record.

(h) (1) A certified nurse-midwife shall refer all emergencies to a physician and surgeon immediately.

(2) A certified nurse-midwife may provide emergency care until the assistance of a physician and surgeon is obtained.

(i) This chapter does not authorize a nurse-midwife to practice medicine or surgery.

(j) This section shall not be construed to require a physician and surgeon to sign protocols and procedures for a nurse-midwife or to permit any action that violates Section 2052 or 2400.

(k) This section shall not be construed to require a nurse-midwife to have mutually agreed-upon, signed policies and protocols for the provision of services described in subdivision (a).

SEC. 4.5.

Section 2746.5 of the Business and Professions Code is amended to read:

2746.5.

(a) The certificate to practice nurse-midwifery authorizes the holder to attend cases of low-risk pregnancy and childbirth and to provide prenatal care, intrapartum care, postpartum care, including immediate care for the newborn, interconception care, family planning care, and care for common gynecologic conditions, consistent with the Core Competencies for Basic Midwifery Practice adopted by the American College of Nurse-Midwives, or its successor national professional organization, as approved by the board. For purposes of this subdivision, "low-risk pregnancy" means a pregnancy in which all of the following conditions are met:

(1) There is a single fetus.

(2) There is a cephalic presentation at onset of labor.

(3) The gestational age of the fetus is greater than or equal to 37 weeks and zero days and less than or equal to 42 weeks and zero days at the time of delivery.

(4) Labor is spontaneous or induced.

(5) The patient has no preexisting disease or condition, whether arising out of the pregnancy or otherwise, that adversely affects the pregnancy and that the certified nurse-midwife is not qualified to independently address consistent with this section.

(b) (1) The certificate to practice nurse-midwifery authorizes the holder, pursuant to policies and protocols that are mutually agreed upon with a physician and surgeon, that delineate the parameters for consultation, collaboration, referral, and transfer of a patient's care, and that are signed by both the certified nurse-midwife and a physician and surgeon, to do any of the following:

(A) Provide a patient with care that falls outside the scope of services specified in subdivision (a).

(B) Provide intrapartum care to a patient who has had a prior cesarean section or surgery that interrupts the myometrium.

(C) Furnish or order a Schedule II or III controlled substance, including for patients that fall within the scope of services specified in subdivision (a).

(2) If a physician and surgeon assumes care of the patient, the certified nurse-midwife may continue to attend the birth of the newborn and participate in physical care, counseling, guidance, teaching, and support, as indicated by the mutually agreed-upon policies and protocols signed by both the certified nurse-midwife and a physician and surgeon.

(3) After a certified nurse-midwife refers a patient to a physician and surgeon, the certified nurse-midwife may continue care of the patient during a reasonable interval between the referral and the initial appointment with the physician and surgeon.

(c) (1) If a nurse-midwife does not have in place mutually agreed-upon policies and protocols that delineate the parameters for consultation, collaboration, referral, and transfer of a patient's care, signed by both the certified nurse-midwife and a physician and surgeon pursuant to paragraph (1) of subdivision (b), the patient shall be transferred to the care of a physician and surgeon to do either or both of the following:

- (A) Provide a patient with care that falls outside the scope of services specified in subdivision (a).
- (B) Provide intrapartum care to a patient who has had a prior cesarean section or surgery that interrupts the myometrium.
- (2) After the certified nurse-midwife initiates the process of transfer pursuant to paragraph (1), for a patient who otherwise meets the definition of a low-risk pregnancy but no longer meets the criteria specified in paragraph (3) of subdivision (a) because the gestational age of the fetus is greater than 42 weeks and zero days, if there is inadequate time to effect safe transfer to a hospital prior to delivery or transfer may pose a threat to the health and safety of the patient or the fetus, the certified nurse-midwife may continue care of the patient consistent with the transfer plan described in subdivision (a) of Section 2746.54.
- (3) A patient who has been transferred from the care of a certified nurse-midwife to that of a physician and surgeon may return to the care of the certified nurse-midwife after the physician and surgeon has determined that the condition or circumstance that required, or would require, the transfer from the care of the nurse-midwife pursuant to paragraph (1) is resolved.
- (d) The certificate to practice nurse-midwifery authorizes the holder to attend pregnancy and childbirth in an out-of-hospital setting if consistent with subdivisions (a), (b), and (c).
- (e) This section shall not be interpreted to deny a patient's right to self-determination or informed decisionmaking with regard to choice of provider or birth setting.
- (f) The certificate to practice nurse-midwifery does not authorize the holder of the certificate to assist childbirth by vacuum or forceps extraction, or to perform any external cephalic version.
- (g) A certified nurse-midwife shall document all consultations, referrals, and transfers in the patient record.
- (h) (1) A certified nurse-midwife shall refer all emergencies to a physician and surgeon immediately.
- (2) A certified nurse-midwife may provide emergency care until the assistance of a physician and surgeon is obtained.
- (i) This chapter does not authorize a nurse-midwife to practice medicine or surgery.
- (j) This section shall not be construed to require a physician and surgeon to sign protocols and procedures for a nurse-midwife or to permit any action that violates Section 2052 or 2400.
- (k) This section shall not be construed to require a nurse-midwife to have mutually agreed-upon, signed policies and protocols for the provision of services described in subdivision (a).
- (l) Notwithstanding any other law, subject to the discretion of a general acute care hospital, as defined in subdivision (a) of Section 1250 of the Health and Safety Code, or a special hospital specified as a maternity hospital, as defined in subdivision (f) of Section 1250 of the Health and Safety Code, and the medical staff bylaws of that facility, a hospital may grant privileges to a certified nurse-midwife, allowing them to admit and discharge patients upon their own authority, within their scope of practice, as delineated in this section, and in accordance with organized medical staff bylaws of that facility.

SEC. 5.

Title 1.81.49 (commencing with Section 1798.99.90) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 1.81.49. Family Planning Center Location Data
1798.99.90.

- (a) A person or business shall not collect, use, disclose, or retain the personal information of a person who is physically located at, or within a precise geolocation of, a family planning center, except as specified in subdivision (c).

(b) For purposes of this section, the following definitions apply:

(1) “Business” means the same as defined in subdivision (c) of Section 1798.140.

(2) “Collect” means the same as defined in subdivision (f) of Section 1798.140.

(3) “Family planning center” means a business categorized as a family planning center by the North American Industry Classification System adopted by the United States Census Bureau, including, but not limited to, a clinic or center that provides reproductive health care services as defined in Section 1798.300 of the Civil Code.

(4) “Personal information” has the same definition as that term is defined in subdivision (v) of Section 1798.140, except as applied to all persons and not limited to consumers and households, as those terms are defined in subdivisions (i) and (q), respectively, of that section.

(5) “Precise geolocation” means a geographic area that is equal to or less than the area of a circle with a radius of 1,850 feet as derived from a device that is used or intended to be used to locate a person.

(6) “Sell” means the same as defined in subdivision (ad) of Section 1798.140.

(7) “Share” means the same as defined in subdivision (ah) of Section 1798.140.

(c) A person or business shall not collect, use, disclose, or retain the personal information of a person who is physically located at, or within a precise geolocation of, a family planning center, except only as necessary to perform the services or provide the goods requested by the person. A person or business shall not sell or share this personal information.

(d) (1) An aggrieved person or entity, including a family planning center, may institute and prosecute a civil action against any person or business who violates this section for injunctive and monetary relief and attorney’s fees within three years of discovery of the violation.

(2) If the court finds for the petitioner in an action authorized by paragraph (1), recovery shall be in the amount of three times the amount of actual damages and any other expenses, costs, or reasonable attorney’s fees incurred in connection with the litigation.

(e) This section does not apply to a provider of health care, a health care service plan, or contractor, as those terms are defined in Section 56.05.

SEC. 6.

Title 1.81.7 (commencing with Section 1798.300) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 1.81.7. Reproductive and Gender-Affirming Health Care Services

1798.300.

As used in this title, the following definitions apply:

(a) “Abusive litigation” means litigation or other legal action to deter, prevent, sanction, or punish a person engaging in legally protected health care activity by either of the following:

(1) Filing or prosecuting an action in a state other than California where liability, in whole or part, directly or indirectly, is based on a legally protected health care activity that was legal in the state in which it occurred, including an action in which liability is based on a theory of vicarious, joint, or several liability.

(2) Attempting to enforce an order or judgment issued in connection with an action described in paragraph (1) by a party to that action or a person acting on behalf of a party to that action. An action shall be considered to be based on conduct that was legal in the state in which it occurred if a part of an act or omission involved in the course of conduct that forms the basis for liability in the action occurs or is initiated in a state in which the health care was legal, whether or not the act or omission is alleged or included in a pleading or other filing in the lawsuit.

(b) “Aggrieved person, provider, or other entity” includes, but is not limited to, a person who resides in California, a business or entity doing business in the state or located in the state, a health care service plan, a health insurer, a person or entity that provided a legally protected health care activity in California, a person who received a legally protected health care activity from a provider licensed in California, a person or entity that is licensed in California to provide a legally protected health care activity, including a provider, clinic, or a person who assisted a person or entity that received or provided a legally protected health care activity in California.

(c) “Gender-affirming health care services” and “gender-affirming mental health care services” have the same meaning as defined in paragraph (3) of subdivision (b) of Section 16010.2 of the Welfare and Institutions Code.

(d) (1) “Legally protected health care activity” means any of the following:

(A) The exercise and enjoyment, or attempted exercise and enjoyment, by a person of rights to reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services secured by the Constitution or laws of California or the provision by a health care service plan contract or a policy, or a certificate of health insurance, that provides for such services.

(B) An act or omission undertaken to aid or encourage, or attempt to aid or encourage, a person in the exercise and enjoyment or attempted exercise and enjoyment of rights to reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services secured by the Constitution or laws of California.

(C) The provision of reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services by a person duly licensed under the laws of California or the coverage of, and reimbursement for, such services or care by a health care service plan or a health insurer, if the service or care is lawful under the laws of California, regardless of the patient’s location.

(2) “Legally protected health care activity” does not include any activity that would be deemed unprofessional conduct or that would violate antidiscrimination laws of California.

(e) “Reproductive health care services” means and includes all services, care, or products of a medical, surgical, psychiatric, therapeutic, diagnostic, mental health, behavioral health, preventative, rehabilitative, supportive, consultative, referral, prescribing, or dispensing nature relating to the human reproductive system provided in accordance with the constitution and laws of this state, whether provided in person or by means of telehealth services which includes, but is not limited to, all services, care, and products relating to pregnancy, the termination of a pregnancy, assisted reproduction, or contraception.

1798.301.

Reproductive health care services, gender-affirming health care services, and gender-affirming mental health care services are rights secured by the Constitution and laws of California. Interference with these rights, whether or not under the color of law, is against the public policy of California.

1798.302.

A public act or record of a foreign jurisdiction that prohibits, criminalizes, sanctions, authorizes a person to bring a civil action against, or otherwise interferes with a person, provider, or other entity in California that seeks, receives, causes, aids in access to, aids, abets, provides, or attempts or intends to seek, receive, cause, aid in access to, aid, abet, or provide, reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services

shall be an interference with the exercise and enjoyment of the rights secured by the Constitution and laws of California and shall be a violation of the public policy of California.

1798.303.

If a person, whether or not acting under color of law, engages or attempts to engage in abusive litigation that infringes on or interferes with, or attempts to infringe on or interfere with, a legally protected health care activity, then an aggrieved person, provider, carrier, or other entity, including a defendant in the abusive litigation, may institute a civil action for injunctive, monetary, or other appropriate relief within three years after the cause of action accrues.

1798.304.

An aggrieved person, provider, or other entity, including a defendant in abusive litigation, may move to modify or quash a subpoena issued in connection with abusive litigation on the grounds that the subpoena is unreasonable, oppressive, or inconsistent with the public policy of California.

1798.305.

If the court finds for the petitioner in an action authorized by Section 1798.303, recovery shall be in the amount of three times the amount of actual damages, which shall include damages for the amount of a judgment issued in connection with an abusive litigation, and any other expenses, costs, or reasonable attorney's fees incurred in connection with the abusive litigation.

1798.306.

(a) A court may exercise jurisdiction over a person in an action authorized by Section 1798.303 if any of the following apply:

(1) Personal jurisdiction is found under Section 410.10 of the Code of Civil Procedure.

(2) The person has commenced an action in a court in California and, during the pendency of that action or an appeal therefrom, a summons and complaint is served on the person or the attorney appearing on the person's behalf in that action or as otherwise permitted by law.

(3) The exercise of jurisdiction is permitted under the Constitution of the United States.

(b) This section does not apply to a lawsuit or judgment entered in another state that is based on conduct for which a cause of action exists under the laws of California, including a contract, tort, common law, or statutory claim.

1798.307.

Notwithstanding any other law, the laws of California shall govern in a case or controversy heard in California related to reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services, except as may be required by federal law.

1798.308.

This title shall not be construed to provide jurisdiction over a California resident in an out-of-state forum when the California resident has not availed themselves of that forum.

SEC. 7.

Section 762.020 of the Code of Civil Procedure is amended to read:

762.020.

(a) If the name of a person required to be named as a defendant is not known to the plaintiff, the plaintiff shall so state in the complaint and shall name as parties all persons unknown in the manner provided in Section 762.060.

(b) If the claim or the share or quantity of the claim of a person required to be named as a defendant is unknown, uncertain, or contingent, the plaintiff shall so state in the complaint. If the lack of knowledge, uncertainty, or contingency is caused by a transfer to an unborn or unascertained beneficiary or class member, or by a transfer in the form of a contingent remainder, vested remainder subject to defeasance, executory interest, or similar disposition, the plaintiff shall also state in the complaint, so far as is known to the plaintiff, the name, age, and legal disability (if any) of the person

in being who would be entitled to the claim had the contingency upon which the claim depends occurred prior to the commencement of the action.

SEC. 8.

Section 872.520 of the Code of Civil Procedure is amended to read:
872.520.

(a) If the name of a person described in Section 872.510 is not known to the plaintiff, the plaintiff shall so state in the complaint and shall name as parties all persons unknown in the manner provided in Section 872.550.

(b) If the ownership or the share or quantity of the interest of a person described in Section 872.510 is unknown, uncertain, or contingent, the plaintiff shall so state in the complaint. If the lack of knowledge, uncertainty, or contingency is caused by a transfer to an unborn or unascertained beneficiary or class member, or by a transfer in the form of a contingent remainder, vested remainder subject to defeasance, executory interest, or similar disposition, the plaintiff shall also state in the complaint, so far as is known to the plaintiff, the name, age, and legal disability (if any) of the person in being who would be entitled to ownership of the interest had the contingency upon which the right of such person depends occurred prior to the commencement of the action.

(c) The court shall upon its own motion or upon motion of any party make such orders for joinder of additional parties and for appointment of guardians ad litem pursuant to Sections 372, 373, and 373.5 as are necessary or proper.

SEC. 9.

Section 1710.50 of the Code of Civil Procedure is amended to read:
1710.50.

(a) The court shall grant a stay of enforcement where:

(1) An appeal from the sister state judgment is pending or may be taken in the state which originally rendered the judgment. Under this paragraph, enforcement shall be stayed until the proceedings on appeal have been concluded or the time for appeal has expired.

(2) A stay of enforcement of the sister state judgment has been granted in the sister state. Under this paragraph, enforcement shall be stayed until the sister state stay of enforcement expires or is vacated.

(3) The judgment debtor has made a motion to vacate pursuant to Section 1710.40. Under this paragraph, enforcement shall be stayed until the judgment debtor's motion to vacate is determined.

(4) A money judgment or lien on real property was obtained against a person or entity for exercising a right guaranteed under the United States Constitution or a right guaranteed under the California Constitution, or against a person or entity for aiding and abetting the exercise of said rights. The stay of enforcement shall remain in place until such time as the statute of limitations in Section 1798.303 of the Civil Code has elapsed or an action prosecuted under Section 1798.303 has concluded, whichever is later.

(5) Any other circumstance exists where the interests of justice require a stay of enforcement.

(b) The court may grant a stay of enforcement under this section on its own motion, on ex parte motion, or on noticed motion.

(c) The court shall grant a stay of enforcement under this section on such terms and conditions as are just including but not limited to the following:

(1) The court may require an undertaking in an amount it determines to be just, but the amount of the undertaking shall not exceed double the amount of the judgment creditor's claim.

(2) If a writ of execution has been issued, the court may order that it remain in effect.

(3) If property of the judgment debtor has been levied upon under a writ of execution, the court may order the levying officer to retain possession of the property capable of physical possession and to maintain the levy on other property.

SEC. 10.

Section 22171 of the Education Code is amended to read:
22171.

(a) "Spouse" means a person who was continuously married to the member for the period beginning at least 12 months prior to the death of the member, unless a child is born to the member and the member's spouse within the 12-month period or unless the spouse is carrying a fetus, conceived with the member.

(b) "Spouse" also means a person who was married to the member for less than 12 months, if the member's death was either accidental, or due to an illness, and the marriage took place prior to the occurrence of the injury or diagnosis of the illness that resulted in death.

(1) A member's death is defined as accidental only if the member received bodily injuries through violent, external, or accidental means and died as a direct result of the bodily injuries and independent of all other causes.

(2) This subdivision does not apply if, at the time of the marriage, the member could not have reasonably been expected to live for 12 months.

(c) Except as excluded by Sections 22661 and 23812, a person who is the registered domestic partner of a member, as established pursuant to Section 297 or 299.2 of the Family Code, shall be treated in the same manner as a spouse.

SEC. 11.

Section 1317.1 of the Health and Safety Code is amended to read:
1317.1.

Unless the context otherwise requires, the following definitions shall control the construction of this article and Section 1371.4:

(a) (1) "Emergency services and care" means medical screening, examination, and evaluation by a physician and surgeon, or, to the extent permitted by applicable law, by other appropriate licensed persons under the supervision of a physician and surgeon, to determine if an emergency medical condition or active labor exists and, if it does, the care, treatment, and surgery, if within the scope of that person's license, necessary to relieve or eliminate the emergency medical condition, within the capability of the facility.

(2) (A) "Emergency services and care" also means an additional screening, examination, and evaluation by a physician, or other personnel to the extent permitted by applicable law and within the scope of their licensure and clinical privileges, to determine if a psychiatric emergency medical condition exists, and the care and treatment necessary to relieve or eliminate the psychiatric emergency medical condition, within the capability of the facility.

(B) The care and treatment necessary to relieve or eliminate a psychiatric emergency medical condition may include admission or transfer to a psychiatric unit within a general acute care hospital, as defined in subdivision (a) of Section 1250, or to an acute psychiatric hospital, as defined in subdivision (b) of Section 1250, pursuant to subdivision (k). Nothing in this subparagraph shall be construed to permit a transfer that is in conflict with the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code).

(C) For the purposes of Section 1371.4, emergency services and care as defined in subparagraph (A) shall not apply to Medi-Cal managed care plan contracts entered into with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000), Chapter 8 (commencing with Section 14200), and Chapter 8.75 (commencing with Section 14590) of Part 3 of Division 9 of the Welfare and Institutions Code, to the extent that those services are excluded from coverage under those contracts.

(D) This paragraph does not expand, restrict, or otherwise affect the scope of licensure or clinical privileges for clinical psychologists or other medical personnel.

(b) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in any of the following:

(1) Placing the patient's health in serious jeopardy.

(2) Serious impairment to bodily functions.

(3) Serious dysfunction of any bodily organ or part.

(c) "Active labor" means a labor at a time at which either of the following would occur:

(1) There is inadequate time to effect safe transfer to another hospital prior to delivery.

(2) A transfer may pose a threat to the health and safety of the patient or the fetus.

(d) "Hospital" means all hospitals with an emergency department licensed by the state department.

(e) "State department" means the State Department of Public Health.

(f) "Medical hazard" means a material deterioration in medical condition in, or jeopardy to, a patient's medical condition or expected chances for recovery.

(g) "Board" means the Medical Board of California.

(h) "Within the capability of the facility" means those capabilities that the hospital is required to have as a condition of its emergency medical services permit and services specified on Services Inventory Form 7041 filed by the hospital with the Department of Health Care Access and Information.

(i) "Consultation" means the rendering of an opinion or advice, prescribing treatment, or the rendering of a decision regarding hospitalization or transfer by telephone or other means of communication. When determined to be medically necessary, jointly by the treating physician and surgeon, or by other appropriate licensed persons acting within their scope of licensure, under the supervision of a physician and surgeon, and the consulting physician and surgeon, "consultation" includes review of the patient's medical record, examination, and treatment of the patient in person by a consulting physician and surgeon, or by other appropriate licensed persons acting within their scope of licensure under the supervision of a consulting physician and surgeon, who is qualified to give an opinion or render the necessary treatment in order to stabilize the patient. A request for consultation shall be made by the treating physician and surgeon, or by other appropriate licensed persons acting within their scope of licensure under the supervision of a treating physician and surgeon, provided the request is made with the contemporaneous approval of the treating physician and surgeon. The treating physician and surgeon may request to communicate directly with the consulting physician and surgeon, and when determined to be medically necessary, jointly by the treating physician and surgeon and the consulting physician and surgeon, the consulting physician and surgeon shall examine and treat the patient in person. The consulting physician and surgeon is ultimately responsible for providing the necessary consultation to the patient, regardless of who makes the in-person appearance.

(j) A patient is "stabilized" or "stabilization" has occurred when, in the opinion of the treating physician and surgeon, or other appropriate licensed persons acting within their scope of licensure under the supervision of a treating physician and surgeon, the patient's medical condition is such that, within reasonable medical probability, no material deterioration of the patient's condition is likely to result from, or occur during, the release or transfer of the patient as provided for in Section 1317.2, Section 1317.2a, or other pertinent statute.

(k) (1) "Psychiatric emergency medical condition" means a mental disorder that manifests itself by acute symptoms of sufficient severity that it renders the patient as being either of the following:

(A) An immediate danger to themselves or to others.

(B) Immediately unable to provide for, or utilize, food, shelter, or clothing, due to the mental disorder.

(2) This subdivision does not expand, restrict, or otherwise affect the scope of licensure or clinical privileges for clinical psychologists or medical personnel.

(l) This section shall not be construed to expand the scope of licensure for licensed persons providing services pursuant to this section.

SEC. 12.

Section 123450 of the Health and Safety Code is repealed.

SEC. 13.

Section 123468.5 is added to the Health and Safety Code, to read:

123468.5.

(a) (1) California law governs in any action in this state, whether civil, administrative, or criminal, against any person who provides, receives, aids or abets in providing or receiving, or attempts to provide or receive, by any means, including telehealth, the health care services described in paragraph (2) if the provider was located in this state or any other state where the care was legal at the time of the challenged conduct.

(2) Reproductive health care services and gender-affirming health care services, including gender-affirming mental health care services, are subject to paragraph (1).

(b) “Reproductive health” has the same meaning as set forth in Section 1798.300 of the Health and Safety Code.

(c) “Gender-affirming health care services” and “gender-affirming mental health care services” have the same meaning as defined in paragraph (3) of subdivision (b) of Section 16010.2 of the Welfare and Institutions Code.

SEC. 14.

Section 187 of the Penal Code is amended to read:

187.

(a) Murder is the unlawful killing of a human being, or a fetus, with malice aforethought.

(b) This section shall not apply to any person who commits an act that results in the death of a fetus if any of the following apply:

(1) The act complied with the former Therapeutic Abortion Act (Article 2 (commencing with Section 123400) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code) or the Reproductive Privacy Act (Article 2.5 (commencing with Section 123460) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code).

(2) The act was committed by a holder of a physician’s and surgeon’s certificate, as defined in the Business and Professions Code, in a case where, to a medical certainty, the result of childbirth would be death of the person pregnant with the fetus or where the pregnant person’s death from childbirth, although not medically certain, would be substantially certain or more likely than not.

(3) It was an act or omission by the person pregnant with the fetus or was solicited, aided, abetted, or consented to by the person pregnant with the fetus.

(c) Subdivision (b) shall not be construed to prohibit the prosecution of any person under any other provision of law.

SEC. 15.

Section 847.5 of the Penal Code is amended to read:

847.5.

(a) Except as provided in subdivision (b), if a person has been admitted to bail in another state, escapes bail, and is present in this state, the bail bondsman or other person who is bail for such fugitive, may file with a magistrate in the county where the fugitive is present an affidavit stating the name and whereabouts of the fugitive, the offense with which the alleged fugitive was charged or of which they were convicted, the time and place of same, and the particulars in which the fugitive has violated the terms of their bail, and may request the issuance of a warrant for arrest of the fugitive, and the issuance, after hearing, of an order authorizing the affiant to return the fugitive to the jurisdiction from which they escaped bail. The magistrate may require such additional

evidence under oath as they deem necessary to decide the issue. If the magistrate concludes that there is probable cause for believing that the person alleged to be a fugitive is such, the magistrate may issue a warrant for the person's arrest. The magistrate shall notify the district attorney of the action and shall direct the district attorney to investigate the case and determine the facts of the matter. When the fugitive is brought before the magistrate pursuant to the warrant, the magistrate shall set a time and place for hearing, and shall advise the fugitive of their right to counsel and to produce evidence at the hearing. The magistrate may admit the fugitive to bail pending the hearing. The district attorney shall appear at the hearing. If, after hearing, the magistrate is satisfied from the evidence that the person is a fugitive, the magistrate may issue an order authorizing affiant to return the fugitive to the jurisdiction from which they escaped bail.

(b) A magistrate shall not issue a warrant for the arrest of an individual whose alleged offense or conviction is for the violation of the laws of another state that authorize a criminal penalty to an individual performing, receiving, supporting, or aiding in the performance or receipt of sexual or reproductive health care, including, but not limited to, an abortion, contraception, or gender-affirming care if the sexual or reproductive health care is lawful under the laws of this state, regardless of the recipient's location.

(c) A bondsman or person authorized, pursuant to subdivision (a) of Section 1299.02, to apprehend, detain, or arrest a fugitive admitted to bail in another state who takes into custody a fugitive admitted to bail in another state whose alleged offense or conviction is for the violation of the laws of another state that authorize a criminal penalty to an individual performing, receiving, supporting, or aiding in the performance or receipt of an abortion, contraception, reproductive care, or gender-affirming care if the abortion, contraception, reproductive care, or gender-affirming care is lawful under the laws of this state, regardless of the recipient's location, without a magistrate's order, is ineligible for a license issued pursuant to Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code or Section 1800 of the Insurance Code, and shall forfeit any license already obtained pursuant to those laws.

(d) A person who is taken into custody by a bail agent in violation of subdivision (b) may institute and prosecute a civil action for injunctive, monetary, or other appropriate relief against the bondsman and bond company within three years after the cause of action accrues.

(e) A bondsman or other person who is bail for a fugitive admitted to bail in another state who takes the fugitive into custody, except pursuant to an order issued under this section, is guilty of an infraction punishable by a fine of five thousand dollars (\$5,000).

SEC. 16.

Section 1299.02 of the Penal Code is amended to read:

1299.02.

(a) No person, other than a certified law enforcement officer, shall be authorized to apprehend, detain, or arrest a bail fugitive unless that person meets one of the following conditions:

(1) Is a bail as defined in paragraph (2) of subdivision (a) of Section 1299.01 who is also a bail fugitive recovery agent as defined in paragraph (4) of subdivision (a) of Section 1299.01.

(2) Is a bail fugitive recovery agent as defined in paragraph (4) of subdivision (a) of Section 1299.01.

(3) Is a licensed private investigator as provided in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code who is also a bail fugitive recovery agent as defined in paragraph (4) of subdivision (a) of Section 1299.01.

(b) This article shall not prohibit an arrest pursuant to Sections 837, 838, and 839, provided that no consideration is paid or allowed, directly or indirectly, to any person effecting an arrest pursuant to Sections 837, 838, and 839.

(c) Individuals who hold a bail license, bail fugitive recovery license, bail enforcer license, bail runner license, or private investigator license issued by another state shall not apprehend, detain, or arrest bail fugitives in California, unless that individual obtains a bail fugitive recovery agent license issued in this state and complies with California law.

(d) A person authorized, pursuant to subdivision (a), to apprehend, detain, or arrest a bail fugitive shall not apprehend, detain, or arrest a bail fugitive admitted to bail in another state whose alleged offense or conviction was for the violation of the laws of another state that authorize a criminal penalty to an individual performing, receiving, supporting, or aiding in the performance or receipt of sexual or reproductive health care, including, but not limited to, an abortion, contraception, or gender-affirming care if the sexual or reproductive health care is lawful under the laws of this state, regardless of the recipient's location. A person who violates this subdivision is guilty of an infraction punishable by a fine of five thousand dollars (\$5,000), is ineligible for a license issued pursuant to Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code or Section 1800 of the Insurance Code, and shall forfeit any license already obtained pursuant to those laws. A person who is taken into custody by a bail agent in violation of this subdivision may institute and prosecute a civil action for injunctive, monetary, or other appropriate relief against the bail fugitive recovery agent within three years after the cause of action accrues.

(e) This section shall become operative on July 1, 2023.

SEC. 17.

Section 1334.2 of the Penal Code is amended to read:

1334.2.

(a) Except as provided in subdivision (f), if a judge of a court of record in any state, which by its laws provides for commanding persons within that state to attend and testify in this state, issues a certificate under the seal of the court that there is a criminal prosecution pending in the court, or that there is a grand jury investigation, that a person within this state is a material witness in that prosecution or grand jury investigation, and that their presence will be required for a specified number of days, then, upon presentation of the certificate to a judge of a court of record in the county in which the person is, a time and place for a hearing shall be fixed by the judge and the judge shall make an order directing the witness to appear at the hearing.

(b) If, at the hearing, the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or grand jury investigation in the other state, and that the laws of the state in which the prosecution is pending or in which there is a grand jury investigation will give to the witness protection from arrest and service of civil and criminal process and will furnish in advance to the witness the sum of ten cents (\$0.10) for each mile necessarily traveled if the witness elects surface travel or the minimum round trip scheduled airline fare plus twenty cents (\$0.20) a mile for necessary surface travel at either end of the flight if the witness elects air travel, and, except as provided in subdivision (b) of Section 1334.3, a per diem of twenty dollars (\$20) for each day that they are required to travel and attend as a witness and that the judge of the court in which the witness is ordered to appear will order the payment of witness fees authorized by law for each day the witness is required to attend the court plus reimbursement for any additional expenses of the witness which the judge of the court in which the witness is ordered to appear shall find reasonable and necessary,

the judge shall issue a subpoena, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending, or where the grand jury investigation is, at a time and place specified in the subpoena. In any of these hearings the certificate shall be prima facie evidence of all the facts stated therein.

(c) If the certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure the witness' attendance therein, the judge may, in lieu of notification of the hearing, direct that the witness be forthwith brought before the judge for the hearing.

(d) If the judge at the hearing is satisfied of the desirability of the custody and delivery, for which determination the certificate shall be prima facie proof of this desirability, the judge may, in lieu of issuing a subpoena, order that the witness be forthwith taken into custody and delivered to an officer of the requesting state.

(e) If the witness, who is subpoenaed as provided in this section, after being paid or tendered by some properly authorized person the sum or fare, and per diem set forth in this section, fails without good cause to attend and testify as directed in the subpoena, the witness shall be punished in the manner provided for the punishment of any witness who disobeys a subpoena issued from a court of record in this state.

(f) A judge shall not issue an order directing a witness to appear pursuant to this section if the criminal prosecution is based on the laws of another state that authorize a criminal penalty to an individual performing, receiving, supporting, or aiding in the performance or receipt of sexual or reproductive health care, including, but not limited to, an abortion, contraception, or gender-affirming care if the sexual or reproductive health care is lawful under the laws of this state.

SEC. 18.

Section 1549.15 is added to the Penal Code, to read:

1549.15.

For purposes of this section, the following terms have the following meanings:

(a) "Gender-affirming health care" and "gender-affirming mental health care" have the same meaning as in paragraph (3) of subdivision (b) of Section 16010.2 of the Welfare and Institutions Code.

(b) (1) "Legally protected health care activity" means any of the following:

(A) The exercise and enjoyment, or attempted exercise and enjoyment, by a person of rights to reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services secured by the Constitution or laws of California or the provision by a health care service plan contract or a policy, or a certificate of health insurance, that provides for such services.

(B) An act or omission undertaken to aid or encourage, or attempt to aid or encourage, a person in the exercise and enjoyment or attempted exercise and enjoyment of rights to reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services secured by the Constitution or laws of California.

(C) The provision of reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services by a person duly licensed under the laws of California or the coverage of, and reimbursement for, those services or care by a health care service plan or a health insurer, if the service or care is lawful under the laws of California, regardless of the patient's location.

(2) "Legally protected health care activity" does not include any activity that would be deemed unprofessional conduct or that would violate antidiscrimination laws of California.

(c) “Reproductive health care services” means and includes all services, care, or products of a medical, surgical, psychiatric, therapeutic, diagnostic, mental health, behavioral health, preventative, rehabilitative, supportive, consultative, referral, prescribing, or dispensing nature relating to the human reproductive system provided in accordance with the constitution and laws of this state, whether provided in person or by means of telehealth services which includes, but is not limited to, all services, care, and products relating to pregnancy, the termination of a pregnancy, assisted reproduction, or contraception.

SEC. 19.

Section 13778.3 is added to the Penal Code, to read:

13778.3.

(a) For purposes of this section, the following terms shall have the following meaning:

(1) “Gender-affirming health care” and “gender-affirming mental health care” have the same meaning as in paragraph (3) of subdivision (b) of Section 16010.2 of the Welfare and Institutions Code.

(2) “Legally protected health care activity” shall have the same meaning as in Section 1549.15.

(3) “Reproductive health care services” shall have the same meaning as in Section 1549.15.

(4) “California corporation” refers to any corporation or other entity that is subject to Section 102 of the Corporations Code, with the exception of foreign corporations.

(b) A state or local government employee, person or entity contracted by a state or local government, or person or entity acting on behalf of a local or state government shall not cooperate with or provide information to any individual, including a bondsman or person authorized, pursuant to subdivision (a) of Section 1299.02, to apprehend, detain, or arrest a fugitive admitted to bail in another state, or out-of-state agency or department regarding any legally protected health care activity or otherwise expend or use time, moneys, facilities, property, equipment, personnel, or other resources in furtherance of any investigation or proceeding that seeks to impose civil or criminal liability or professional sanctions upon a person or entity for any legally protected health care activity that occurred in this state or that would be legal if it occurred in this state.

(c) This section does not prohibit compliance with a valid, court-issued subpoena, warrant, wiretap order, pen register trap and trace order, or other legal process which does not relate to a law seeking to impose civil or criminal liability or professional sanctions for a legally protected health care activity, or in response to the written request of a person who is the subject of such an investigation or proceeding, to the extent necessary, in each case, to fulfill such request.

(d) Any out-of-state subpoena, warrant, wiretap order, pen register trap and trace order, legal process, or request from any law enforcement agent or entity shall include an affidavit or declaration under penalty of perjury that the discovery is not in connection with an out-of-state proceeding relating to any legally protected health care activity unless the out-of-state proceeding meets all of the following requirements:

(1) Is based in tort, contract, or on statute.

(2) Is actionable, in an equivalent or similar manner, under the laws of this state.

(3) Was brought by the patient who received a legally protected health care activity or the patient’s legal representative.

(e) A state court, judicial officer, court employee or clerk, or authorized attorney shall not issue a subpoena pursuant to any other state’s law unless it includes the affidavit or declaration defined in subdivision (d).

(f) A California corporation that provides electronic communication services or remote computing services to the general public shall not comply with an out of state subpoena, warrant, wiretap

order, pen register trap and trace order, other legal process, or request by a law enforcement agent or entity seeking records that would reveal the identity of the customers using those services, data stored by, or on behalf of, the customer, the customer's usage of those services, the recipient or destination of communications sent to or from those customers, or the content of those communications, unless the out of state subpoena, warrant, wiretap order, pen register trap and trace order, other legal process, or request from law enforcement includes the affidavit or declaration defined in subdivision (d). A corporation subject to this subdivision is entitled to rely on the representations made in the affidavit or declaration.

SEC. 20.

Section 1003 of the Probate Code is amended to read:

1003.

(a) The court may, on its own motion or on request of a personal representative, guardian, conservator, trustee, or other interested person, appoint a guardian ad litem at any stage of a proceeding under this code to represent the interest of any of the following persons, if the court determines that representation of the interest otherwise would be inadequate:

(1) A minor.

(2) A person who lacks legal capacity to make decisions.

(3) An unborn beneficiary.

(4) An unascertained person.

(5) A person whose identity or address is unknown.

(6) A designated class of persons who are not ascertained or are not in being.

(b) If not precluded by a conflict of interest, a guardian ad litem may be appointed to represent several persons or interests.

(c) The reasonable expenses of the guardian ad litem, including compensation and attorney's fees, shall be determined by the court and paid as the court orders, either out of the property of the estate involved or by the petitioner or from any other source as the court orders.

(d) Before a court appoints a guardian ad litem pursuant to this chapter, a proposed guardian ad litem shall disclose both of the following to the court and all parties to the action or proceeding:

(1) Any known actual or potential conflicts of interest that would or might arise from the appointment.

(2) Any familial or affiliate relationship the proposed guardian ad litem has with any of the parties.

(e) If a guardian ad litem becomes aware that a potential conflict of interest has become an actual conflict of interest or that a new potential or actual conflict of interest exists, the guardian ad litem shall promptly disclose the conflict of interest to the court.

SEC. 21.

Section 10954 of the Probate Code is amended to read:

10954.

(a) Notwithstanding any other provision of this part, the personal representative is not required to file an account if any of the following conditions is satisfied as to each person entitled to distribution from the estate:

(1) The person has executed and filed a written waiver of account or a written acknowledgment that the person's interest has been satisfied.

(2) Adequate provision has been made for satisfaction in full of the person's interest. This paragraph does not apply to a residuary devisee or a devisee whose interest in the estate is subject to abatement, payment of expenses, or accrual of interest or income.

(b) A waiver or acknowledgment under subdivision (a) shall be executed as follows:

- (1) If the person entitled to distribution is an adult and competent, by that person.
- (2) If the person entitled to distribution is a minor, by a person authorized to receive money or property belonging to the minor. If the waiver or acknowledgment is executed by a guardian of the estate of the minor, the waiver or acknowledgment may be executed without the need to obtain approval of the court in which the guardianship proceeding is pending.
- (3) If the person entitled to distribution is a conservatee, by the conservator of the estate of the conservatee. The waiver or acknowledgment may be executed without the need to obtain approval of the court in which the conservatorship proceeding is pending.
- (4) If the person entitled to distribution is a trust, by the trustee, but only if the named trustee's written acceptance of the trust is filed with the court. In the case of a trust that is subject to the continuing jurisdiction of the court pursuant to Chapter 4 (commencing with Section 17300) of Part 5 of Division 9, the waiver or acknowledgment may be executed without the need to obtain approval of the court.
- (5) If the person entitled to distribution is an estate, by the personal representative of the estate. The waiver or acknowledgment may be executed without the need to obtain approval of the court in which the estate is being administered.
- (6) If the person entitled to distribution is incapacitated, is an unborn beneficiary, is unascertained, or is a person whose identity or address is unknown, or is a designated class of persons who are not ascertained or are not in being, and there is a guardian ad litem appointed to represent the person entitled to distribution, by the guardian ad litem.
- (7) If the person entitled to distribution has designated an attorney in fact who has the power under the power of attorney to execute the waiver or acknowledgment, by either of the following:
 - (A) The person entitled to distribution if an adult and competent.
 - (B) The attorney in fact.
- (c) Notwithstanding subdivision (a):
 - (1) The personal representative shall file a final report of administration at the time the final account would otherwise have been required. The final report shall include the amount of compensation paid or payable to the personal representative and to the attorney for the personal representative and shall set forth the basis for determining the amounts.
 - (2) A creditor whose interest has not been satisfied may petition under Section 10950 for an account.

SEC. 22.

Section 15405 of the Probate Code is amended to read:
15405.

For the purposes of Sections 15403 and 15404, the consent of a beneficiary who lacks legal capacity, including a minor, or who is an unascertained or unborn beneficiary may be given in proceedings before the court by a guardian ad litem, if it would be appropriate to do so. In determining whether to give consent, the guardian ad litem may rely on general family benefit accruing to living members of the beneficiary's family as a basis for approving a modification or termination of the trust.

SEC. 23.

Section 19507 of the Probate Code is amended to read:
19507.

(a) In this section, a notice period begins on the day notice is given under subdivision (c) and ends 59 days after the day notice is given.

(b) An authorized fiduciary may exercise the decanting power without the consent of any person and without court approval in compliance with this part.

(c) Except as otherwise provided in subdivision (h), an authorized fiduciary shall give notice of the intended exercise of the decanting power not later than 60 days before the exercise to all of the following:

(1) Each settlor of the first trust, if living or then in existence.

(2) Each qualified beneficiary of the first trust.

(3) Each holder of a presently exercisable power of appointment over any part or all of the first trust.

(4) Each person that currently has the right to remove or replace the authorized fiduciary.

(5) Each other fiduciary of the first trust.

(6) Each fiduciary of the second trust.

(7) The Attorney General, if subdivision (b) of Section 19514 applies.

(d) Unless the trust instrument provides otherwise, an authorized fiduciary shall give notice under subdivision (c) to the guardian ad litem for a qualified beneficiary who is a minor and has no representative or who is an unascertained or unborn beneficiary. If a guardian ad litem has not been appointed at the time of the notice, the authorized fiduciary shall seek the appointment of one. The court may appoint a guardian ad litem, for purposes of this section, in instances where the only matter before the court is that appointment.

(e) If an authorized fiduciary knows, or has reason to know, that a person entitled to notice under subdivision (c) is substantially unable to manage that person's own financial resources or resist fraud or undue influence, the authorized fiduciary shall give notice under subdivision (c) to that person and to the individual appointed to act on that person's behalf, including, but not limited to, an attorney-in-fact under a power of attorney. If no such individual has been appointed at the time of the notice, the authorized fiduciary shall seek the appointment of such an individual. The court may appoint a guardian ad litem, for purposes of this section, in instances where the only matter before the court is that appointment.

(f) An authorized fiduciary is not required to give notice under subdivision (c) to a person who is known to the fiduciary but cannot be located by the fiduciary after reasonable diligence.

(g) A notice under subdivision (c) shall include all of the following:

(1) A description of the manner in which the authorized fiduciary intends to exercise the decanting power, which shall include a statement as to the authorized fiduciary's reason for the proposed decanting and an explanation as to the differences between the first trust and the second trust or trusts.

(2) The proposed effective date for exercise of the power.

(3) A copy of the first trust instrument.

(4) A copy of all second trust instruments.

(5) A warning, set out in a separate paragraph in not less than 10-point bold type, or a reasonable equivalent thereof, that states the following:

“If you do not bring a court action to contest the proposed trust decanting (the proposed changes to the trust) within 59 days of this notice, you will lose your right to contest the decanting.”

(h) The decanting power may be exercised before expiration of the notice period under subdivision (a) if all persons entitled to receive notice waive the period in a signed waiver.

(i) The receipt of notice, waiver of the notice period, or expiration of the notice period does not affect the right of a person to file an application under Section 19509 that asserts either of the following:

(1) An attempted exercise of the decanting power is ineffective because it did not comply with this part or was an abuse of discretion or breach of fiduciary duty.

(2) Section 19522 applies to the exercise of the decanting power.

(j) The notice required by this section shall be served by mail to the last known address, pursuant to Section 1215, or by personal delivery.

SEC. 24.

Section 11486.5 of the Welfare and Institutions Code is amended to read:

11486.5.

(a) An individual shall not be eligible for aid under this chapter if the individual is either:

(1) Fleeing to avoid prosecution, or custody and confinement after conviction, under the laws of the place from which the individual is fleeing, for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual is fleeing, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that state. For the purposes of this section, an individual shall be determined to be fleeing to avoid prosecution, or custody and confinement after conviction, if a federal, state, or local law enforcement officer, acting in an official capacity, presents an outstanding felony arrest warrant containing one or more of the following National Crime Information Center Offense Classification Codes:

(A) Escape (4901).

(B) Flight to Avoid (4902).

(C) Flight-Escape (4999).

(2) Violating a condition of probation or parole imposed under federal law or the law of any state.

(b) Subdivision (a) shall not apply with respect to conduct of an individual for any month beginning after the President of the United States grants a pardon with respect to the conduct.

SEC. 25.

The provisions of this act are severable. If any provision of this act 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.

SEC. 26.

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.

SEC. 27.

Section 4.5 of this bill incorporates amendments to Section 2746.5 of the Business and Professions Code proposed by both this bill and Senate Bill 667. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2024, (2) each bill amends Section 2746.5 of the Business and Professions Code, and (3) this bill is enacted after Senate Bill 667, in which case Section 4 of this bill shall not become operative.

CHAPTER 255
(Assembly Bill No. 352)

An act to amend Sections 56.101 and 56.108 of, and to add Section 56.110 to, the Civil Code and to amend Section 130290 of the Health and Safety Code, relating to health information.

Approved by Governor, September 27, 2023. Filed with Secretary of State, September 27, 2023.

SECTION 1.

Section 56.101 of the Civil Code is amended to read:

56.101.

(a) Every provider of health care, health care service plan, pharmaceutical company, or contractor who creates, maintains, preserves, stores, abandons, destroys, or disposes of medical information shall do so in a manner that preserves the confidentiality of the information contained therein. Any provider of health care, health care service plan, pharmaceutical company, or contractor who negligently creates, maintains, preserves, stores, abandons, destroys, or disposes of medical information shall be subject to the remedies and penalties provided under subdivisions (b) and (c) of Section 56.36.

(b) (1) An electronic health record system or electronic medical record system shall do all of the following:

(A) Protect and preserve the integrity of electronic medical information.

(B) Automatically record and preserve any change or deletion of any electronically stored medical information. The record of any change or deletion shall include the identity of the person who accessed and changed the medical information, the date and time the medical information was accessed, and the change that was made to the medical information.

(2) A patient's right to access or receive a copy of the patient's electronic medical records upon request shall be consistent with applicable state and federal laws governing patient access to, and the use and disclosures of, medical information.

(c) (1) A business, as described in Section 56.06, that electronically stores or maintains medical information on the provision of sensitive services, including, but not limited to, on an electronic health record system or electronic medical record system, on behalf of a provider of health care, health care service plan, pharmaceutical company, contractor, or employer, shall develop capabilities, policies, and procedures, on or before July 1, 2024, to enable all of the following:

(A) Limit user access privileges to information systems that contain medical information related to gender affirming care, abortion and abortion-related services, and contraception only to those persons who are authorized to access specified medical information.

(B) Prevent the disclosure, access, transfer, transmission, or processing of medical information related to gender affirming care, abortion and abortion-related services, and contraception to persons and entities outside of this state in accordance to this part.

(C) Segregate medical information related to gender affirming care, abortion and abortion-related services, and contraception from the rest of the patient's record.

(D) Provide the ability to automatically disable access to segregated medical information related to gender affirming care, abortion and abortion-related services, and contraception by individuals and entities in another state.

(2) Any fees charged to providers of health care, health care service plans, pharmaceutical company, contractors, employers, or patients to comply with this subdivision shall be consistent with Section 171.302 of Title 45 of the Code of Federal Regulations.

(3) For the purposes of this subdivision, “gender affirming care” means gender affirming health care and gender affirming mental health care as defined in subdivision (b) of Section 16010.2 of the Welfare and Institutions Code.

(4) This subdivision does not apply to a provider of health care, as defined in Section 56.05.

(d) This section shall apply to an “electronic medical record” or “electronic health record” that meets the definition of “electronic health record,” as that term is defined in Section 17921(5) of Title 42 of the United States Code.

SEC. 2.

Section 56.108 of the Civil Code is amended to read:

56.108.

(a) Notwithstanding subdivisions (b) and (c) of Section 56.10 or subdivision (c) of Section 56.20, a provider of health care, health care service plan, contractor, or employer shall not release medical information related to an individual seeking or obtaining an abortion in response to a subpoena or request if that subpoena or request is based on either another state’s laws that interfere with a person’s rights under the Reproductive Privacy Act (Article 2.5 (commencing with Section 123460) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code) or a foreign penal civil action, as defined in Section 2029.200 of the Code of Civil Procedure.

(b) A provider of health care, health care service plan, contractor, or employer shall not release medical information that would identify an individual or that is related to an individual seeking or obtaining an abortion to law enforcement for either of the following purposes, unless that release is pursuant to a subpoena not otherwise prohibited by subdivision (a):

(1) Enforcement of another state’s law that would interfere with a person’s rights under the Reproductive Privacy Act (Article 2.5 (commencing with Section 123460) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code).

(2) Enforcement of a foreign penal civil action, as defined in Section 2029.200 of the Code of Civil Procedure.

(c) Notwithstanding subdivisions (b) and (c) of Section 56.10 or subdivision (c) of Section 56.20, a provider of health care, health care service plan, contractor, or employer shall not cooperate with any inquiry or investigation by, or provide medical information to, any individual, agency, or department from another state or, to the extent permitted by federal law, to a federal law enforcement agency that would identify an individual and that is related to an individual seeking or obtaining an abortion or abortion-related services that are lawful under the laws of this state, unless the request for medical information is authorized under Section 56.110.

(d) This section does not prohibit compliance with the investigation of activity that is punishable as a crime under the laws of this state.

SEC. 3.

Section 56.110 is added to the Civil Code, to read:

56.110.

(a) Notwithstanding subdivision (c) of Section 56.10, a provider of health care, health care service plan, pharmaceutical company, contractor, or employer shall not knowingly disclose, transmit, transfer, share, or grant access to medical information in an electronic health records system or through a health information exchange that would identify an individual and that is related to an individual seeking, obtaining, providing, supporting, or aiding in the performance of an abortion that is lawful under the laws of this state to any individual or entity from another state, unless the

disclosure, transmittal, transfer, sharing, or granting of access is authorized under any of the following conditions:

(1) In accordance with a valid, written authorization pursuant to Section 56.11 that clearly states that medical information on abortion or abortion-related services may be disclosed, and only to the extent and for the purposes expressly stated in the authorization.

(2) In accordance with paragraphs (2) and (3) of subdivision (c) of Section 56.10, to the extent necessary to allow responsibility for payment to be determined and payment to be made or to the extent that it is not further disclosed by the recipient in a way that would violate this part.

(3) In accordance with paragraphs (4) and (5) of subdivision (c) of Section 56.10 for the purpose of accreditation, in reviewing the competence or qualifications of health care professionals, or in reviewing health care services with respect to medical necessity, level of care, quality of care, or justification of charges.

(4) In accordance with paragraph (7) of subdivision (c) of Section 56.10, for the purpose of bona fide research. Institutional Review Boards shall consider the potential harm to the patient and the patient's privacy when the research uses data that contains information related to abortion or abortion-related services and the research is performed out of state.

(b) Notwithstanding subdivision (a), the content of the health records containing medical information described in subdivision (a) shall be disclosed to any of the following:

(1) A patient, or their personal representative, consistent with the Patient Access to Health Records Act (Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code).

(2) In response to an order of a California or federal court, but only to the extent clearly stated in the order and consistent with Section 1543 of the Penal Code, if applicable, and only if all information about the patient's identity and records are protected from public scrutiny through mechanisms, including, but not limited to, a sealed proceeding or court record.

(3) When expressly required by federal law that preempts California law, but only to the extent expressly required.

(c) Nothing in this section shall prohibit a provider of health care, health care service plan, pharmaceutical company, contractor, or employer from cooperating or complying with the investigation of activity that is punishable as a crime under the laws of California, and that took place in California.

(d) A provider of health care, as defined in Section 56.05, shall not be subject to liability for damages or to civil or enforcement actions, including disciplinary actions, fines, or penalties, for failure to meet the requirements of this section before January 31, 2026, if the provider of health care is working diligently and in good faith to come into compliance with this section.

SEC. 4.

Section 130290 of the Health and Safety Code is amended to read:
130290.

(a) On or before July 1, 2022, and subject to an appropriation in the annual Budget Act, the California Health and Human Services Agency, along with its departments and offices and in consultation with stakeholders and local partners, shall establish the California Health and Human Services Data Exchange Framework that shall include a single data sharing agreement and common set of policies and procedures that will leverage and advance national standards for information exchange and data content, and that will govern and require the exchange of health information among health care entities and government agencies in California.

(1) The California Health and Human Services Data Exchange Framework is not intended to be an information technology system or single repository of data, rather it is technology agnostic and is a collection of organizations that are required to share health information using national standards and a common set of policies in order to improve the health outcomes of the individuals they serve.

(2) The California Health and Human Services Data Exchange Framework will be designed to enable and require real-time access to, or exchange of, health information among health care providers and payers through any health information exchange network, health information organization, or technology that adheres to specified standards and policies.

(3) The California Health and Human Services Data Exchange Framework shall align with state and federal data requirements, including the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code), and other applicable state and federal privacy laws related to the sharing of data among and between providers, payers, and the government, while also streamlining and reducing reporting burden.

(4) For the purposes of this section, "health information" means:

(A) For hospitals, clinics, and physician practices, at a minimum, the United States Core Data for Interoperability Version 1, until October 6, 2022. After that date, it shall include all electronic health information as defined under federal regulation in Section 171.102 of Title 45 of the Code of Federal Regulations and held by the entity.

(B) For health insurers and health care service plans, at a minimum, the data required to be shared under the federal Centers for Medicare and Medicaid Services Interoperability and Patient Access regulations for public programs as contained in United States Department of Health and Human Services final rule CMS-9115-F, 85 FR 25510.

(b) (1) On or before January 31, 2024, and except as provided in paragraphs (2) and (3), the entities listed in subdivision (f) shall exchange health information or provide access to health information to and from every other entity in subdivision (f) in real time as specified by the California Health and Human Services Agency pursuant to the California Health and Human Services Data Exchange Framework data sharing agreement for treatment, payment, or health care operations.

(2) The requirement in paragraph (1) shall not apply to physician practices of fewer than 25 physicians, rehabilitation hospitals, long-term acute care hospitals, acute psychiatric hospitals, critical access hospitals, and rural general acute care hospitals with fewer than 100 acute care beds, state-run acute psychiatric hospitals, and any nonprofit clinic with fewer than 10 health care providers until January 31, 2026.

(3) The requirement in paragraph (1) shall not apply to the exchange of health information related to abortion and abortion-related services.

(c) The California Health and Human Services Agency shall convene a stakeholder advisory group no later than September 1, 2021, to advise on the development and implementation of the California Health and Human Services Data Exchange Framework.

(1) The members of the stakeholder advisory group shall be appointed by the Secretary of California Health and Human Services and shall not have a financial interest, individually or through a family member, related to issues the stakeholder advisory group will advise on.

(2) The stakeholder advisory group shall be composed of health care stakeholders and experts, including representatives of all the following:

(A) The State Department of Health Care Services.

(B) The State Department of Social Services.

(C) The Department of Managed Health Care.

(D) The Department of Health Care Access and Information.

(E) The State Department of Public Health.

(F) The Department of Insurance.

(G) The Public Employees' Retirement System.

(H) The California Health Benefit Exchange.

(I) Health care service plans and health insurers.

(J) Physicians, including those with small practices.

(K) Hospitals, including public, private, rural, and critical access hospitals.

(L) Clinics, long-term care facilities, behavioral health facilities, or substance use disorder facilities.

(M) Consumers.

(N) Organized labor.

(O) Privacy and security professionals.

(P) Health information technology professionals.

(Q) Community health information organizations.

(R) County health, social services, and public health.

(S) Community-based organizations providing social services.

(3) The stakeholder advisory group shall provide information and advice to the California Health and Human Services Agency on health information technology issues, including all of the following:

(A) Identify which data beyond health information as defined in paragraph (4) of subdivision (a), at minimum, should be shared for specified purposes between the entities outlined in this subdivision and subdivision (f).

(B) Identify gaps, and propose solutions to gaps, in the life cycle of health information, including gaps in any of the following:

(i) Health information creation, including the use of national standards in clinical documentation, health plan records, and social services data.

(ii) Translation, mapping, controlled vocabularies, coding, and data classification.

(iii) Storage, maintenance, and management of health information.

(iv) Linking, sharing, exchanging, and providing access to health information.

(C) Identify ways to incorporate data related to social determinants of health, such as housing and food insecurity, into shared health information.

(D) Identify ways to incorporate data related to underserved or underrepresented populations, including, but not limited to, data regarding sexual orientation and gender identity and racial and ethnic minorities.

(E) Identify ways to incorporate relevant data on behavioral health and substance use disorder conditions.

(F) Address the privacy, security, and equity risks of expanding care coordination, health information exchange, access, and telehealth in a dynamic technological, and entrepreneurial environment, where data and network security are under constant threat of attack.

(G) Develop policies and procedures consistent with national standards and federally adopted standards in the exchange of health information and ensure that health information sharing broadly implements national frameworks and agreements consistent with federal rules and programs.

(H) Develop definitions of complete clinical, administrative, and claims data consistent with federal policies and national standards.

(I) Identify how all payers will be required to provide enrollees with electronic access to their health information, consistent with rules applicable to federal payer programs.

(J) Assess governance structures to help guide policy decisions and general oversight.

(K) Identify federal, state, private, or philanthropic sources of funding that could support data access and exchange.

(4) The stakeholder advisory group shall hold public meetings with stakeholders, solicit input, and set its own meeting agendas. Meetings of the stakeholder advisory group are subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(5) The members of the stakeholder advisory group shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the group.

(d) No later than April 1, 2022, the California Health and Human Services Agency shall submit an update, including written recommendations, to the Legislature based on input from the stakeholder advisory group on the issues identified in paragraph (3) of subdivision (c).

(e) On or before January 31, 2023, the California Health and Human Services Agency shall work with the California State Association of Counties to encourage the inclusion of county health, public health, and social services, to the extent possible, as part of the California Health and Human Services Data Exchange Framework in order to assist both public and private entities to connect through uniform standards and policies. It is the intent of the Legislature that all state and local public health agencies will exchange electronic health information in real time with participating health care entities to protect and improve the health and well-being of Californians.

(f) On or before January 31, 2023, and in alignment with existing federal standards and policies, the following health care organizations shall execute the California Health and Human Services Data Exchange Framework data sharing agreement pursuant to subdivision (a):

(1) General acute care hospitals, as defined by Section 1250.

(2) Physician organizations and medical groups.

(3) Skilled nursing facilities, as defined by Section 1250, that currently maintain electronic records.

(4) Health care service plans and disability insurers that provide hospital, medical, or surgical coverage that are regulated by the Department of Managed Health Care or the Department of Insurance. This section shall also apply to a Medi-Cal managed care plan under a comprehensive risk contract with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code that is not regulated by the Department of Managed Health Care or the Department of Insurance.

(5) Clinical laboratories, as that term is used in Section 1265 of the Business and Professions Code, and that are regulated by the State Department of Public Health.

(6) Acute psychiatric hospitals, as defined by Section 1250.

(g) The California Health and Human Services Agency shall work with experienced nonprofit organizations and entities represented in the stakeholder advisory group in subdivision (c) to provide technical assistance to the entities outlined in subdivisions (e) and (f).

(h) On or before July 31, 2022, the California Health and Human Services Agency shall develop in consultation with the stakeholder advisory group in subdivision (c) a strategy for unique, secure digital identities capable of supporting master patient indices to be implemented by both private and public organizations in California.

(i) For purposes of implementing this section, including, but not limited to, hiring staff and consultants, facilitating and conducting meetings, conducting research and analysis, and developing the required reports, the California Health and Human Services Agency may enter into exclusive or nonexclusive contracts on a bid or negotiated basis. Contracts entered into or amended pursuant to this section shall be exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, Section 19130 of the Government Code, and Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, and shall be exempt from the review or approval of any division of the Department of General Services. No person hired or otherwise retained pursuant to this subdivision shall be permitted to have any financial interest in the California Health and Human Services Data Exchange Framework or shall be, or be affiliated with, any health care organization required to participate in the California Health and Human Services Data Exchange Framework pursuant to subdivisions (b) and (f). The term "person," as used in this subdivision, means any individual, partnership, joint venture, association, corporation, or any other organization or any combination thereof.

(j) All actions to implement the California Health and Human Services Data Exchange Framework, including the adoption or development of any data sharing agreement, requirements, policies and procedures, guidelines, subgrantee contract provisions, or reporting requirements, shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The California Health and Human Services Agency, or

a designee department or office under its jurisdiction, shall release program notices that detail the requirements of the California Health and Human Services Data Exchange Framework.

SEC. 4.5.

Section 130290 of the Health and Safety Code is amended to read:
130290.

(a) (1) On or before July 1, 2022, and subject to an appropriation in the annual Budget Act, the California Health and Human Services Agency, along with its departments and offices and in consultation with stakeholders and local partners, shall establish the California Health and Human Services Data Exchange Framework that shall include a single data sharing agreement and common set of policies and procedures that will leverage and advance national standards for information exchange and data content, and that will govern and require the exchange of health information among health care entities and government agencies in California.

(2) The California Health and Human Services Data Exchange Framework is not intended to be an information technology system or single repository of data, rather it is technology agnostic and is a collection of organizations that are required to share health information using national standards and a common set of policies in order to improve the health outcomes of the individuals they serve.

(3) The California Health and Human Services Data Exchange Framework will be designed to enable and require real-time access to, or exchange of, health information among health care providers and payers through any health information exchange network, health information organization, or technology that adheres to specified standards and policies.

(4) The California Health and Human Services Data Exchange Framework shall align with state and federal data requirements, including the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code), the information blocking provisions of the federal 21st Century Cures Act (Public Law 114-255), and other applicable state and federal privacy laws related to the sharing of data among and between providers, payers, and the government, while also streamlining and reducing reporting burden.

(5) For the purposes of this section, "health information" means:

(A) For hospitals, clinics, and physician practices, at a minimum, the United States Core Data for Interoperability Version 1, until October 6, 2022. After that date, it shall include all electronic health information as defined under federal regulation in Section 171.102 of Title 45 of the Code of Federal Regulations and held by the entity.

(B) For health insurers and health care service plans, at a minimum, the data required to be shared under the federal Centers for Medicare and Medicaid Services Interoperability and Patient Access regulations for public programs as contained in United States Department of Health and Human Services final rule CMS-9115-F, 85 FR 25510.

(6) For purposes of this section, "EHR vendor" means a company, other than a health care provider that self-develops health information technology for its own use, that sells electronic health records, as defined in Section 17921 of Title 42 of the United States Code.

(b) (1) On or before January 31, 2024, and except as provided in paragraphs (2) and (3), the entities listed in subdivision (f) shall exchange health information or provide access to health information to and from every other entity in subdivision (f) in real time as specified by the California Health and Human Services Agency pursuant to the California Health and Human Services Data Exchange Framework data sharing agreement for treatment, payment, or health care operations.

(2) The requirement in paragraph (1) shall not apply to physician practices of fewer than 25 physicians, rehabilitation hospitals, long-term acute care hospitals, acute psychiatric hospitals, critical access hospitals, and rural general acute care hospitals with fewer than 100 acute care beds, state-run acute psychiatric hospitals, and any nonprofit clinic with fewer than 10 health care providers until January 31, 2026.

(3) The requirement in paragraph (1) shall not apply to the exchange of health information related to abortion and abortion-related services.

(c) (1) The California Health and Human Services Agency shall convene a stakeholder advisory group no later than September 1, 2021, to advise on the development and implementation of the California Health and Human Services Data Exchange Framework.

(2) The members of the stakeholder advisory group shall be appointed by the Secretary of California Health and Human Services and shall not have a financial interest, individually or through a family member, related to issues the stakeholder advisory group will advise on.

(3) The stakeholder advisory group shall be composed of health care stakeholders and experts, including representatives of all the following:

(A) The State Department of Health Care Services.

(B) The State Department of Social Services.

(C) The Department of Managed Health Care.

(D) The Department of Health Care Access and Information.

(E) The State Department of Public Health.

(F) The Department of Insurance.

(G) The Public Employees' Retirement System.

(H) The California Health Benefit Exchange.

(I) Health care service plans and health insurers.

(J) Physicians, including those with small practices.

(K) Hospitals, including public, private, rural, and critical access hospitals.

(L) Clinics, long-term care facilities, behavioral health facilities, or substance use disorder facilities.

(M) Consumers.

(N) Organized labor.

(O) Privacy and security professionals.

(P) Health information technology professionals.

(Q) Community health information organizations.

(R) County health, social services, and public health.

(S) Community-based organizations providing social services.

(4) The stakeholder advisory group shall provide information and advice to the California Health and Human Services Agency on health information technology issues, including all of the following:

(A) (i) Identify which data beyond health information as defined in paragraph (5) of subdivision (a), at minimum, should be shared for specified purposes between the entities outlined in this subdivision and subdivision (f).

(ii) In discussing data elements that are required to be exchanged, the stakeholder advisory group shall consider data needed for administrative functions of a medical practice, including intake forms and questionnaires, patient scheduling, insurance card upload and verification, invoicing and payment data, and patient-to-provider messaging.

(B) Identify gaps, and propose solutions to gaps, in the life cycle of health information, including gaps in any of the following:

(i) Health information creation, including the use of national standards in clinical documentation, health plan records, and social services data.

(ii) Translation, mapping, controlled vocabularies, coding, and data classification.

(iii) Storage, maintenance, and management of health information.

(iv) Linking, sharing, exchanging, and providing access to health information.

(C) Identify ways to incorporate data related to social determinants of health, such as housing and food insecurity, into shared health information.

(D) Identify ways to incorporate data related to underserved or underrepresented populations, including, but not limited to, data regarding sexual orientation and gender identity and racial and ethnic minorities.

(E) Identify ways to incorporate relevant data on behavioral health and substance use disorder conditions.

(F) Address the privacy, security, and equity risks of expanding care coordination, health information exchange, access, and telehealth in a dynamic technological, and entrepreneurial environment, where data and network security are under constant threat of attack.

(G) Develop policies and procedures consistent with national standards and federally adopted standards in the exchange of health information and ensure that health information sharing broadly implements national frameworks and agreements consistent with federal rules and programs.

(H) Develop definitions of complete clinical, administrative, and claims data consistent with federal policies and national standards.

(I) Identify how all payers will be required to provide enrollees with electronic access to their health information, consistent with rules applicable to federal payer programs.

(J) Assess governance structures to help guide policy decisions and general oversight.

(K) Identify federal, state, private, or philanthropic sources of funding that could support data access and exchange.

(L) Consider whether standards for including EHR vendors in the California Health and Human Services Data Exchange Framework would be appropriate, and, if determined to be appropriate, develop those standards.

(5) The stakeholder advisory group shall hold public meetings with stakeholders, solicit input, and set its own meeting agendas. Meetings of the stakeholder advisory group are subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(6) The members of the stakeholder advisory group shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the group.

(d) No later than April 1, 2022, the California Health and Human Services Agency shall submit an update, including written recommendations, to the Legislature based on input from the stakeholder advisory group on the issues identified in paragraph (4) of subdivision (c).

(e) On or before January 31, 2023, the California Health and Human Services Agency shall work with the California State Association of Counties to encourage the inclusion of county health, public health, and social services, to the extent possible, as part of the California Health and Human Services Data Exchange Framework in order to assist both public and private entities to connect through uniform standards and policies. It is the intent of the Legislature that all state and local public health agencies will exchange electronic health information in real time with participating health care entities to protect and improve the health and well-being of Californians.

(f) (1) On or before January 31, 2023, and in alignment with existing federal standards and policies, the following health care organizations shall execute the California Health and Human Services Data Exchange Framework data sharing agreement pursuant to subdivision (a):

(A) General acute care hospitals, as defined by Section 1250.

(B) Physician organizations and medical groups.

(C) Skilled nursing facilities, as defined by Section 1250, that currently maintain electronic records.

(D) Health care service plans and disability insurers that provide hospital, medical, or surgical coverage that are regulated by the Department of Managed Health Care or the Department of Insurance. This section shall also apply to a Medi-Cal managed care plan under a comprehensive risk contract with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code that is not regulated by the Department of Managed Health Care or the Department of Insurance.

(E) Clinical laboratories, as that term is used in Section 1265 of the Business and Professions Code, and that are regulated by the State Department of Public Health.

(F) Acute psychiatric hospitals, as defined by Section 1250.

(2) If the stakeholder advisory group develops standards for including EHR vendors in the California Health and Human Services Data Exchange Framework, EHR vendors shall execute the California Health and Human Services Data Exchange Framework data sharing agreement no later than 12 months after the completion of the standards, and in alignment with existing federal standards and policies pursuant to subdivision (a).

(g) The California Health and Human Services Agency shall work with experienced nonprofit organizations and entities represented in the stakeholder advisory group in subdivision (c) to provide technical assistance to the entities outlined in subdivisions (e) and (f).

(h) On or before July 31, 2022, the California Health and Human Services Agency shall develop in consultation with the stakeholder advisory group in subdivision (c) a strategy for unique, secure digital identities capable of supporting master patient indices to be implemented by both private and public organizations in California.

(i) For purposes of implementing this section, including, but not limited to, hiring staff and consultants, facilitating and conducting meetings, conducting research and analysis, and developing the required reports, the California Health and Human Services Agency may enter into exclusive or nonexclusive contracts on a bid or negotiated basis. Contracts entered into or amended pursuant to this section shall be exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, Section 19130 of the Government Code, and Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, and shall be exempt from the review or approval of any division of the Department of General Services. No person hired or otherwise retained pursuant to this subdivision shall be permitted to have any financial interest in the California Health and Human Services Data Exchange Framework or shall be, or be affiliated with, any health care organization required to participate in the California Health and Human Services Data Exchange Framework pursuant to subdivisions (b) and (f). The term "person," as used in this subdivision, means any individual, partnership, joint venture, association, corporation, or any other organization or any combination thereof.

(j) (1) Any fees charged by an EHR vendor to enable compliance with the California Health and Human Services Data Exchange Framework shall be reasonable, consistent with Sections 171.302(a) and 171.303 of Title 45 of the Code of Federal Regulations.

(2) Reasonable fees shall be sufficient to include the cost of enabling the collection and sharing of all data required to be exchanged under this section, as specified in the California Health and Human Services Data Sharing Agreement.

(k) As part of any other oversight activities authorized and developed with respect to this section, the California Health and Human Services Agency, in consultation with the stakeholder advisory group or subsequent governing board, may establish administrative oversight and enforcement authority to monitor fees charged by EHR vendors to entities described in paragraph (2) of subdivision (b) for compliance with the federal standards required under subdivision (j). The oversight and enforcement authority may include the imposition of fines and penalties against an EHR vendor that is found not in compliance with the federal standards required under subdivision (j).

(l) All actions to implement the California Health and Human Services Data Exchange Framework, including the adoption or development of any data sharing agreement, requirements, policies and procedures, guidelines, subgrantee contract provisions, or reporting requirements, shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The California Health and Human Services Agency, or a designee department or office under its jurisdiction, shall release program notices that detail the requirements of the California Health and Human Services Data Exchange Framework.

SEC. 5.

Section 4.5 of this bill incorporates amendments to Section 130290 of the Health and Safety Code proposed by both this bill and Senate Bill 582. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2024, (2) each bill amends Section 130290 of the Health and Safety Code, and (3) this bill is enacted after Senate Bill 582, in which case Section 4 of this bill shall not become operative.

SEC. 6.

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.

AB 1707

An act to add Sections 805.9 and 850.1 to the Business and Professions Code, and to add Sections 1220.1 and 1265.11 to the Health and Safety Code, relating to health care.

SECTION 1.

Section 805.9 is added to the Business and Professions Code, to read:

805.9.

(a) A health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code shall not deny staff privileges to, remove from medical staff, or restrict the staff privileges ~~of, of~~ a person licensed by a healing arts board in this state ~~solely~~ on the basis of a civil judgment, criminal conviction, or disciplinary action imposed by another state if that judgment, conviction, or disciplinary action is based solely on the application of another state's law that interferes with a person's right to receive ~~care~~ *sensitive services* that would be lawful if provided in this state.

(b) This section does not apply to a civil judgment, criminal conviction, or disciplinary action imposed in another state for which a similar claim, charge, or action would exist against the licensee under the laws of this state.

(c) For purposes of this ~~section,~~ *healing section*:

(1) *"Healing arts board"* means any board, division, or examining committee in the Department of Consumer Affairs that licenses or certifies health professionals.

(2) *"Sensitive services"* has the same meaning as in Section 56.05 of the Civil Code.

SEC. 2.

Section 850.1 is added to the Business and Professions Code, to read:

850.1.

(a) A healing arts board shall not deny an application for licensure or suspend, revoke, or otherwise impose discipline upon a licensee ~~solely~~ on the basis of a civil judgment, criminal conviction, or disciplinary action in another state if that judgment, conviction, or disciplinary action is based solely on the application of another state's law that interferes with a person's right to receive care that would be lawful if provided in this state.

(b) This section does not apply to a civil judgment, criminal conviction, or disciplinary action imposed in another state for which a similar claim, charge, or action would exist against the applicant or licensee under the laws of this state.

(c) For purposes of this section, ~~“healing section:”~~

(1) *“Healing arts board”* means any board, division, or examining committee in the Department of Consumer Affairs that licenses or certifies health professionals.

(2) *“Sensitive services”* has the same meaning as in Section 56.05 of the Civil Code.

SEC. 3.

Section 1220.1 is added to the Health and Safety Code, to read:

1220.1.

(a) An application for licensure made pursuant to this chapter shall not be denied, nor shall any license issued pursuant to this chapter be suspended, revoked, or otherwise limited, ~~solely~~ on the basis of a civil judgment, criminal conviction, or disciplinary action imposed by another state if that judgment, conviction, or disciplinary action is based solely on the application of another state’s law that interferes with a person’s right to receive ~~care~~ *sensitive services* that would be lawful if provided in this state.

(b) This section does not apply to a civil judgment, criminal conviction, or disciplinary action imposed by another state for which a similar claim, charge, or action would exist against the applicant or licensee under the laws of this state.

(c) *For purposes of this section, “sensitive services” has the same meaning as in Section 56.05 of the Civil Code.*

SEC. 4.

Section 1265.11 is added to the Health and Safety Code, to read:

1265.11.

(a) An application for licensure made pursuant to this chapter shall not be denied, nor shall any license issued pursuant to this chapter be suspended, revoked, or otherwise limited, ~~solely~~ on the basis of a civil judgment, criminal conviction, or disciplinary action imposed by another state if that judgment, conviction, or disciplinary action is based solely on the application of another state’s law that interferes with a person’s right to receive ~~care~~ *sensitive services* that would be lawful if provided in this state.

(b) This section does not apply to a civil judgment, criminal conviction, or disciplinary action imposed by another state for which a similar claim, charge, or action would exist against the applicant or licensee under the laws of this state.

(c) *For purposes of this section, “sensitive services” has the same meaning as in Section 56.05 of the Civil Code.*

SEC. 5.

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 crea

CHAPTER 261
Senate Bill No. 487

An act to amend Section 123467.5 of, and to add Section 1375.61 to, the Health and Safety Code, to add Section 10133.641 to the Insurance Code, and to amend Sections 14043.6 and 14123 of the Welfare and Institutions Code, relating to abortion.

Approved by Governor, September 27, 2023. Filed with Secretary of State, September 27, 2023

SECTION 1.

Section 1375.61 is added to the Health and Safety Code, to read:

1375.61.

(a) A contract issued, amended, or renewed on or after January 1, 2024, between a health care service plan and a provider of health care services shall not contain any term that would result in termination or nonrenewal of the contract or otherwise penalize the provider, based solely on a civil judgment issued in another state, a criminal conviction in another state, or another disciplinary action in another state, if the judgment, conviction, or disciplinary action is based solely on the application of another state's law that interferes with a person's right to receive care that would be lawful if provided in this state.

(b) A health care service plan shall not discriminate, with respect to the provision of, or contracts for, professional services, against a licensed provider solely on the basis of a civil judgment issued in another state, a criminal conviction in another state, or another disciplinary action in another state if the judgment, conviction, or disciplinary action is based solely on the application of another state's law that interferes with a person's right to receive care that would be lawful if provided in this state.

(c) This section does not apply to a civil judgment, a criminal conviction, or a disciplinary action imposed in another state based upon conduct that would subject a provider to claim, charge, or action under the laws of this state.

SEC. 2.

Section 123467.5 of the Health and Safety Code is amended to read:

123467.5.

(a) A law of another state that authorizes a person to bring a civil action against a person or entity that does any of the following is contrary to the public policy of this state:

(1) Receives or seeks an abortion.

(2) Performs, provides, or induces an abortion.

(3) Knowingly engages in conduct that aids or abets the performance, provision, or inducement of an abortion.

(4) Attempts or intends to engage in the conduct described in paragraphs (1) to (3), inclusive.

(b) The state shall not do either of the following:

(1) Apply a law described in subdivision (a) to a case or controversy heard in state court.

(2) Enforce or satisfy a civil judgment received through an adjudication under a law described in subdivision (a).

(c) 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.

SEC. 3.

Section 10133.641 is added to the Insurance Code, to read:

10133.641.

(a) A contract issued, amended, or renewed on or after January 1, 2024, between a health insurer and a provider of health care services shall not contain any term that would result in termination or nonrenewal of the contract or otherwise penalize the provider, based solely on a civil judgment issued in another state, a criminal conviction in another state, or another professional disciplinary action in another state, if the judgment, conviction, or professional disciplinary action is based solely on the application of another state's law that interferes with a person's right to receive care that would be lawful if provided in this state.

(b) A health insurer shall not discriminate, with respect to the provision of, or contracts for, professional services, against a licensed provider solely on the basis of a civil judgment issued in another state, a criminal conviction in another state, or another professional disciplinary action in another state if the judgment, conviction, or professional disciplinary action is based solely on the application of another state's law that interferes with a person's right to receive care that would be lawful if provided in this state.

(c) This section does not apply to a civil judgment, a criminal conviction, or a disciplinary action imposed in another state based upon conduct that would subject a provider to claim, charge, or action under the laws of this state.

(d) The commissioner may enforce this section pursuant to Chapter 4.5 (commencing with Section 11400) or Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. This subdivision does not impair or restrict the commissioner's enforcement authority pursuant to another provision of this code or the Administrative Procedure Act.

SEC. 4.

Section 14043.6 of the Welfare and Institutions Code is amended to read:

14043.6.

(a) Except as provided in subdivision (b), the department shall automatically suspend, as a provider in the Medi-Cal program, any individual who, or any entity that, has a license, certificate, or other approval to provide health care, which is revoked or suspended by a federal, California, or another state's licensing, certification, or approval authority, has otherwise lost that license, certificate, or approval, or has surrendered that license, certificate, or approval while a disciplinary hearing on that license, certificate, or approval was pending. The automatic suspension shall be effective on the date that the license, certificate, or approval was revoked, lost, or surrendered.

(b) The department may elect to not suspend an individual or entity as a provider in the Medi-Cal program pursuant to subdivision (a) if the revocation, suspension, or loss of the individual or entity's license, certification, or approval authority in another state or the pending disciplinary hearing during which the individual or entity surrendered the license, certification, or approval authority in another state is based solely on conduct that is not deemed to be unprofessional conduct under California law. The department shall seek any federal approvals it deems necessary to implement this subdivision. This subdivision shall be implemented only to the extent that the department obtains any necessary federal approvals and federal financial participation under the Medi-Cal program is available and not otherwise jeopardized.

(c) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific subdivision (b), in whole or in part, by means of plan or county letters, information notices, plan or provider bulletins, or similar written instructions.

SEC. 5.

Section 14123 of the Welfare and Institutions Code is amended to read:

14123.

Participation in the Medi-Cal program by a provider of service is subject to suspension in order to protect the health of the recipients and the funds appropriated to carry out this chapter.

(a) (1) The director may suspend a provider of service from further participation under the Medi-Cal program for violation of any provision of this chapter or Chapter 8 (commencing with Section 14200) or any rule or regulation promulgated by the director pursuant to those chapters. The suspension may be for an indefinite or specified period of time and with or without conditions, or may be imposed with the operation of the suspension stayed or probation granted. The director shall suspend a provider of service for conviction of any felony or any misdemeanor involving fraud, abuse of the Medi-Cal program or any patient, or otherwise substantially related to the qualifications, functions, or duties of a provider of service.

(2) If the provider of service is a clinic, group, corporation, or other association, conviction of any officer, director, or shareholder with a 10 percent or greater interest in that organization, of a crime described in paragraph (1) shall result in the suspension of that organization and the individual convicted if the director believes that suspension would be in the best interest of the Medi-Cal program. If the provider of service is a political subdivision of the state or other government agency, the conviction of the person in charge of the facility of a crime described in paragraph (1) may result in the suspension of that facility. The record of conviction or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of the fact that the conviction occurred. A plea or verdict of guilty, or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

(3) After conviction, but before the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, the director, if they believe that suspension would be in the best interests of the Medi-Cal program, may order the suspension of a provider of service. When the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence irrespective of any subsequent order under Section 1203.4 of the Penal Code allowing a person to withdraw their

plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment, the director shall order the suspension of a provider of service. The suspension shall not take effect earlier than the date of the director's order.

Suspension following a conviction is not subject to the proceedings required in subdivision (c).

However, the director may grant an informal hearing at the request of the provider of service to determine in the director's sole discretion if the circumstances surrounding the conviction justify rescinding or otherwise modifying the suspension provided for in this subdivision.

(4) If the provider of service appeals the conviction and the conviction is reversed, the provider may apply for reinstatement to the Medi-Cal program after the conviction is reversed.

Notwithstanding Section 14124.6, the application for reinstatement shall not be subject to the one-year waiting period for the filing of a reinstatement petition pursuant to Section 11522 of the Government Code.

(b) (1) Whenever the director receives written notification from the Secretary of the United States Department of Health and Human Services that a physician or other individual practitioner has been suspended from participation in the Medicare or Medicaid programs, the director shall promptly suspend the practitioner from participation in the Medi-Cal program and notify the Administrative Director of the Division of Workers' Compensation of the suspension, in accordance with paragraph (2) of subdivision (e). This automatic suspension is not subject to the proceedings required in subdivision (c). No payment from state or federal funds may be made for any item or service rendered by the practitioner during the period of suspension.

(2) If the practitioner suspended from participation in the Medicare Program or Medicaid program is a participant in the Medi-Cal program, the director may request a waiver as permitted by federal law, including, but not limited to, Section 1320a-7(d)(3)(B)(i) of Title 42 of the United States Code if the suspension was based solely on conduct that is not deemed to be unprofessional conduct under California law. The department shall seek any federal approvals it deems necessary to implement this paragraph. This paragraph shall be implemented only to the extent that the department obtains any necessary federal approvals and federal financial participation under the Medi-Cal program is available and not otherwise jeopardized.

(3) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific paragraph (2), in whole or in part, by means of plan or county letters, information notices, plan or provider bulletins, or similar written instructions.

(c) The proceedings for suspension shall be conducted pursuant to Section 100171 of the Health and Safety Code. The director may temporarily suspend any provider of service prior to any hearing when in their opinion that action is necessary to protect the public welfare or the interests of the Medi-Cal program. The director shall notify the provider of service of the temporary suspension and the effective date thereof and at the same time serve the provider with an accusation. The accusation and all proceedings thereafter shall be in accordance with Section 100171 of the Health and Safety Code. Upon receipt of a notice of defense by the provider, the director shall set the matter for hearing within 30 days after receipt of the notice. The temporary suspension shall remain in effect until such time as the hearing is completed and the director has made a final determination on the merits. The temporary suspension shall, however, be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed. This subdivision does not apply where the suspension of a provider is based upon the conviction of any crime involving fraud, abuse of the Medi-Cal

program, or suspension from the federal Medicare Program. In those instances, suspension shall be automatic.

(d) (1) The suspension by the director of any provider of service shall preclude the provider from submitting claims for payment, either personally or through claims submitted by any clinic, group, corporation, or other association to the Medi-Cal program for any services or supplies the provider has provided under the program, except for services or supplies provided prior to the suspension. No clinic, group, corporation, or other association which is a provider of service shall submit claims for payment to the Medi-Cal program for any services or supplies provided by a person within the organization who has been suspended or revoked by the director, except for services or supplies provided prior to the suspension.

(2) If the provisions of this chapter, Chapter 8 (commencing with Section 14200), or the regulations promulgated by the director are violated by a provider of service that is a clinic, group, corporation, or other association, the director may suspend the organization and any individual person within the organization who is responsible for the violation.

(e) (1) Notice of the suspension shall be sent by the director to the provider's state licensing, certifying, or registering authority, along with the evidence upon which the suspension was based.

(2) At the same time notice is provided pursuant to paragraph (1), the director shall provide written notification of the suspension to the Administrative Director of the Division of Workers' Compensation, for purposes of Section 139.21 of the Labor Code.

(f) In addition to the bases for suspension contained in subdivisions (a) and (b), the director may suspend a provider of service from further participation under the Medi-Cal dental program for the provision of services that are below or less than the standard of acceptable quality, as established by the California Dental Association Guidelines for the Assessment of Clinical Quality and Professional Performance, Copyright 1995, Third Edition, as periodically amended. The suspension shall be subject to the requirements contained in subdivisions (a) to (e), inclusive.

SEC. 6.

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.

AB 571

(An act to add Section 11589.1 to the Insurance Code, relating to insurance.)

Existing law generally regulates classes of insurance, including liability insurance. Existing law defines "liability insurance" to include, among other things, insurance coverage against the legal liability of the insured, and against loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence or malpractice in rendering professional services by any person who holds a certificate or license issued pursuant to the Medical Practice Act or the Osteopathic Initiative Act, or a license as a community clinic or health facility, as specified.

This bill would prohibit an insurer from refusing to issue or renew or terminating professional liability insurance for health care providers and from imposing a surcharge or increasing the premium or deductible solely based on any prohibited bases for discrimination, including a health care provider offering or performing abortion, contraception, gender-affirming health care, or care related to those health care services that are lawful in this state but unlawful in another state.

The bill would prohibit an insurer from denying coverage for liability for damages arising from offering, performing, or rendering abortion, contraception, gender-affirming health care, or care related to those health care services, if those services are within the scope of the insured's license and the policy would otherwise cover liability for damages arising from performing or rendering other professional services within the insured's scope of license.

SECTION 1.

Section 11589.1 is added to the Insurance Code, to read:

11589.1.

(a) An insurer shall not refuse to issue or renew, nor shall terminate, professional liability insurance for a health care provider in this state, solely based on any prohibited bases for discrimination set forth in subdivision (d).

(b) An insurer shall not increase premium, impose a surcharge or other additional compensation or cost, or institute or increase a deductible amount or other cost sharing payable by an insured, solely based on any prohibited bases for discrimination set forth in subdivision (d). *Nothing in this section shall be construed to supersede, modify, or otherwise affect in any way the provisions of Article 10 (commencing with Section 1861.01) of Chapter 9 of Part 2 of Division 1 and implementing regulations, as applicable.*

(c) An insurer providing professional liability insurance for health care providers in this state shall not deny coverage for liability for damages arising from offering, performing, or rendering abortion, contraception, gender-affirming health care, or care related to those health care services, if such services are within the scope of the insured's license and the policy would otherwise cover liability for such damages arising from performing or rendering other professional services within the insured's scope of license.

(d) For purposes of this section, "prohibited bases for discrimination" include all of the following:

(1) A health care provider offers or performs abortion, contraception, gender-affirming health care, or care related to those health care services, that are lawful in this state, including, but not limited to, those that may be unlawful in another state.

(2) Another state's laws create potential or actual liability for abortion, contraception, gender-affirming health care, or care related to those health care services offered or performed in this state.

(3) Legal or administrative action taken in another state against a health care provider concerning abortion, contraception, gender-affirming health care, or care related to those health care services, results or resulted in a judgment, conviction, or disciplinary action against the provider, if such health care services, as provided, are or would be lawful and consistent with the applicable standard of care in this state.

(e) This section applies to professional liability insurance marketed, offered, issued, amended, or renewed in this state for health care providers in this state.

(f) For purposes of this section, the following definitions shall apply:

(1) “Health care provider” means a person licensed under Division 2 (commencing with Section 500) of the Business and Professions Code to perform or render health care services in this state.

(2) “Offer or perform” means to offer, perform, provide, prescribe, dispense, furnish, or otherwise render health care items or services, as well as to aid or assist in the rendering of those items or services.

(3) “Professional liability insurance” means insurance against liability for damages caused by any act or omission of a person licensed to provide health care services in rendering professional services within this state issued by any insurer, including, but not limited to, a joint underwriting association, cooperative corporation, or reciprocal or interinsurance exchange.

AB 1720

Clinics: prenatal screening.

Existing law requires the State Department of Public Health to license and regulate clinics and health facilities. Existing law generally makes a violation of those licensing provisions a crime. Existing law requires a person or facility that offers a fetal ultrasound, or a similar procedure, for keepsake or entertainment purposes, to disclose to a client prior to performing the procedure, in writing, a specified statement.

This bill would specify the settings in which an ultrasound or similar medical imaging device procedure may be offered. The bill would exempt a practice of a licensed midwife, or a practice of a certified nurse-midwife. The bill would impose a civil penalty for the violation of this provision in the amount of \$2,500 for a first offense and \$5,000 for each subsequent offense, defined as each ultrasound conducted outside of the specified settings. The bill would authorize the Attorney General, a district attorney, a city attorney, or a county counsel to bring an action to impose the civil penalty. The bill would specify how the civil penalty funds and related costs are to be paid.

SECTION 1.

Section 123621 is added to the Health and Safety Code, to read:

123621.

(a) An ultrasound, or a similar medical imaging device or procedure used for a medical, counseling, or diagnostic service or purpose, shall only be offered in the following settings:

(1) A licensed clinic, as described in Chapter 1 (commencing with Section 1200) of Division 2.

(2) An outpatient setting, as described in Chapter 1.3 (commencing with Section 1248) of Division 2.

(3) A licensed health facility, as described in Chapter 2 (commencing with Section 1250) of Division 2.

(4) A practice of a licensed physician or surgeon, a medical group practice, including a professional medical corporation, as defined in Section 2406 of the Business and Professions Code, another form of corporation controlled by physicians and surgeons, a medical partnership, a medical foundation exempt from licensure, or another lawfully organized group of physicians and surgeons that provides health care services.

(5) A practice of a licensed chiropractor, as described in Chapter 2 (commencing with Section 1000) of Division 2 of the Business and Professions Code, or a lawfully organized group of licensed chiropractors that provides health care services.

(6) A practice of a licensed physical therapist, as described in Chapter 5.7 (commencing with Section 2600) of Division 2 of the Business and Professions Code, or a lawfully organized group of licensed physical therapists that provides health care services.

(7) A facility affiliated with those settings.

(8) An exempt entity as described in Section 1206.

(b) This section does not apply to a practice of a licensed midwife providing care pursuant to Article 24 (commencing with Section 2505) of Chapter 5 of Division 2 of the Business and Professions Code, or a practice of a certified nurse-midwife providing care pursuant to Article 2.5 (commencing with Section 2746) of Chapter 6 of Division 2 of the Business and Professions Code.

SEC. 2.

Section 123622 is added to the Health and Safety Code, to read:

123622.

(a) Any person or entity that fails to comply with the requirements of Section 123621 is liable for a civil penalty of two thousand five hundred dollars (\$2,500) for a first offense and five thousand dollars (\$5,000) for each subsequent offense. The Attorney General, a district attorney, a city attorney, or a county counsel may bring an action to impose a civil penalty pursuant to this section. For purposes of this subdivision, an offense is each ultrasound conducted in violation of Section 123621.

(b) Any person or entity that violates this section is liable for any costs, fees, and civil penalties. Costs, fees, and civil penalties collected pursuant to this section shall be paid to the office that brought the action as follows:

(1) To the Office of the Attorney General.

(2) To the treasurer of the city for the city attorney.

(3) To the treasurer of the county for the district attorney.

(4) To the treasurer of the county for the county counsel.

AB 1646

Physicians and surgeons: postgraduate training: guest rotations.

Existing law, the Medical Practice Act, establishes the Medical Board of California within the Department of Consumer Affairs and sets forth its powers and duties relating to the licensure and regulation of the practice of medicine by physicians and surgeons.

Existing law prohibits a postgraduate training licensee, intern, resident, postdoctoral fellow, or instructor from engaging in the practice of medicine, or receiving compensation for that practice, unless they hold a valid, unrevoked, and unsuspended physician's and surgeon's certificate issued by the board, except as provided. Among those exceptions, existing law authorizes a graduate of a board-approved medical school to engage in and receive compensation for the practice of medicine as a part of a postgraduate training program if, among other requirements, the graduate obtains a postgraduate training license, as provided. Existing law also authorizes a graduate who has completed the first year of postgraduate training, in an approved residency or fellowship, to engage in the practice of medicine as part of that residency or fellowship, and to receive

compensation for that practice. If the resident or fellow fails to receive a license to practice medicine within 27 months from the commencement of the residency or fellowship, except as otherwise specified, or if the board denies their application for licensure, these privileges and exemptions automatically cease.

Under an existing regulation adopted by the board, all approved postgraduate training for which the applicant received credit counts toward the exemption period described above, including any training obtained within or outside of California, whether a full or partial year of training and regardless of whether the postgraduate training program was successfully completed. As an exception to that regulation, a board-approved medical school graduate who is engaged in approved postgraduate training outside of California is authorized to participate in guest rotations in an approved postgraduate training program in California, not to exceed a total of 90 days for all rotations.

Under this bill, a board-approved medical school graduate who is engaged in an Accreditation Council for Graduate Medical Education (ACGME)-accredited postgraduate training program outside of California, would similarly be authorized, as a participant in guest rotations in an approved ~~or ACGME-accredited~~ postgraduate training program in ~~California~~, *California or a participating training site affiliated with an ACGME-accredited program*, to engage in the practice of medicine as part of that training program, not to exceed a total of 90 days for all rotations, and to receive compensation for that practice without obtaining a postgraduate training license.

SECTION 1.

Section 2065 of the Business and Professions Code is amended to read:

2065.

(a) Unless otherwise provided by law, a postgraduate training licensee, intern, resident, postdoctoral fellow, or instructor shall not engage in the practice of medicine, or receive compensation therefor, or offer to engage in the practice of medicine unless they hold a valid, unrevoked, and unsuspended physician's and surgeon's certificate issued by the board. However, a graduate of an approved medical school may engage in the practice of medicine whenever and wherever required as a part of a postgraduate training program under the following conditions:

(1) The medical school graduate has taken and passed the board-approved medical licensing examinations required to qualify the applicant to participate in an approved postgraduate training program.

(2) If the medical school graduate graduated from a foreign medical school approved by the board pursuant to Section 2084, the Educational Commission for Foreign Medical Graduates (ECFMG) has submitted an official ECFMG Certification Status Report directly to the board confirming the graduate is ECFMG certified.

(3) The medical school graduate is enrolled in a postgraduate training program approved by the board.

(4) The board-approved postgraduate training program has submitted the required board-approved form to the board documenting the medical school graduate is enrolled in an approved postgraduate training program.

(5) The medical school graduate obtains a physician's and surgeon's postgraduate training license in accordance with Section 2064.5.

(b) A medical school graduate enrolled in an approved first-year postgraduate training program in accordance with this section may engage in the practice of medicine whenever and wherever required as a part of the training program, and may receive compensation for that practice.

(c) A graduate who has completed the first year of postgraduate training may, in an approved residency or fellowship, engage in the practice of medicine whenever and wherever required as part of that residency or fellowship, and may receive compensation for that practice. The resident or fellow shall qualify for, take, and pass the next succeeding written examination for licensure. If the resident or fellow fails to receive a license to practice medicine under this chapter within 27 months from the commencement of the residency or fellowship, except as otherwise allowed under subdivision (g) or (h), or if the board denies their application for licensure, all privileges and exemptions under this section shall automatically cease.

(d) A graduate from a medical school approved pursuant to Section 2084 who is engaged in an Accreditation Council for Graduate Medical Education (ACGME)-accredited postgraduate training program outside of California may, as a participant in guest rotations in an approved ~~or ACGME-accredited~~ postgraduate training program in ~~California~~, *California or a participating training site affiliated with an ACGME-accredited program*, engage in the practice of medicine whenever and wherever required as part of that training program, not to exceed a total of 90 days for all rotations, and may receive compensation for that practice without obtaining a physician's and surgeon's postgraduate training license in accordance with Section 2064.5.

(e) All approved postgraduate training the medical school graduate has successfully completed in the United States or Canada shall count toward the 15-month license exemption for graduates of medical schools in the United States and Canada or 27-month license exemption for graduates of foreign medical schools approved by the board pursuant to Section 2084 other than Canadian medical schools, except as otherwise allowed under subdivision (g).

(f) The program director for an approved postgraduate training program in California shall report to the board, on a form approved by the board, and provide any supporting documents as required by the board, the following actions within 30 days of the action:

(1) A postgraduate training licensee is notified that they have received partial or no credit for a period of postgraduate training, and their postgraduate training period is extended.

(2) A postgraduate training licensee takes a leave of absence or any break from their postgraduate training, and they are notified that their postgraduate training period is extended.

(3) A postgraduate training licensee is terminated from the postgraduate training program.

(4) A postgraduate training licensee resigns, dies, or otherwise leaves the postgraduate training program.

(5) A postgraduate training licensee has completed a one-year contract approved by the postgraduate training program.

(g) Upon review of supporting documentation, the board, in its discretion, may grant an extension beyond 15 months to a postgraduate training licensee who graduated from a medical school in the United States or Canada, or beyond 27 months to a postgraduate training licensee who graduated from a foreign medical school approved by the board pursuant to Section 2084 other than a Canadian medical school, to receive credit for the 12 months of required approved postgraduate training for graduates of medical schools in the United States and Canada and 24 months of required approved postgraduate training for graduates of foreign medical schools other than Canadian medical schools.

(h) An applicant for a physician's and surgeon's license who has received credit for 12 months of approved postgraduate training in another state or in Canada and who is accepted into an approved

postgraduate training program in California shall obtain their physician's and surgeon's license within 90 days after beginning that postgraduate training program or all privileges and exemptions under this section shall automatically cease.

(i) Upon review of supporting documentation, the board, in its discretion, may grant a physician's and surgeon's license to an applicant who demonstrates substantial compliance with this section.

CHAPTER 178

Senate Bill No. 385

An act to amend Section 3502.4 of, and to add Section 3527.5 to, the Business and Professions Code, relating to healing arts.

Approved by Governor, September 08, 2023. Filed with Secretary of State, September 08, 2023.

SB 385 Physician Assistant Practice Act: abortion by aspiration: training.

The Physician Assistant Practice Act establishes the Physician Assistant Board to license and regulate physician assistants. Existing law makes it a crime to perform an abortion without holding a license to practice as a physician and surgeon or without holding a specified license or certificate under the Physician Assistant Practice Act that authorizes the holder to perform specified functions necessary for an abortion in the first trimester of pregnancy. The act requires a physician assistant to complete training and comply with certain protocols, as specified, to receive authority from the physician assistant's supervising physician and surgeon to perform an abortion by aspiration techniques.

This bill would revise the training requirements to instead require a physician assistant to achieve clinical competency by successfully completing requisite training, as described, in performing an abortion by aspiration techniques. The bill would set forth what types of training qualify. The bill would remove the requirement that a physician assistant follow certain protocols to receive authority from the physician assistant's supervising physician and surgeon to perform an abortion by aspiration techniques.

This bill would authorize a physician assistant who has completed the training and achieved clinical competency, as described, to perform abortions by aspirations techniques without the personal presence of a supervising physician and surgeon, except as provided. The bill would require a physician assistant to practice abortion by aspiration techniques consistent with applicable standards of care, within the scope of their clinical and professional education and training, and pursuant to their practice agreement. The bill would provide that specified persons authorized to perform abortion by aspiration techniques shall not be punished, held liable for damages in a civil action, or denied any right or privilege for any action relating to the evaluation of clinical competency of a physician assistant, as described. The bill would make other technical changes.

SECTION 1.

Section 3502.4 of the Business and Professions Code is amended to read:
3502.4.

(a) In order to receive authority from the physician assistant's supervising physician and surgeon to perform an abortion by aspiration techniques pursuant to Section 2253, a physician assistant shall achieve clinical competency by successfully completing requisite training in performing

these procedures. The requisite training shall include a clinical and didactic component and be provided by any of the following:

- (1) Training programs approved by the board pursuant to Section 3513.
- (2) Training to perform medical services that augment the physician assistant's current areas of competency pursuant to Section 1399.543 of Title 16 of the California Code of Regulations.
- (3) A course offered by a state or national health care professional or accreditation organization.
- (4) Training based on the competency-based training protocols established by the Health Workforce Pilot Project (HWPP) No. 171 through the Office of Statewide Health Planning and Development, now known as the Department of Health Care Access and Information.
- (5) Training and evaluation of clinical competency, performed at a clinic or hospital, on performing abortion by aspiration techniques that is provided by any of the following who have performed the procedure themselves:
 - (A) A physician and surgeon.
 - (B) A nurse practitioner or certified nurse midwife authorized to perform abortion by aspiration techniques pursuant to Section 2725.4.
 - (C) A physician assistant authorized to perform abortion by aspiration techniques pursuant to this section.
- (b) A physician assistant who has completed training and achieved clinical competency, as required by this section, and is functioning pursuant to Section 3502 shall be authorized to perform abortions by aspiration techniques pursuant to Section 2253 without the personal presence of a supervising physician and surgeon unless specified by their practice agreement.
- (c) A physician assistant shall practice abortion by aspiration techniques pursuant to Section 2253 consistent with applicable standards of care, within the scope of their clinical and professional education and training, and pursuant to their practice agreement.
- (d) It is unprofessional conduct for any physician assistant to perform an abortion by aspiration techniques pursuant to Section 2253 without prior completion of training and validation of clinical competency.
- (e) A person authorized to perform abortion by aspiration techniques described in paragraph (5) of subdivision (a) shall not be punished, held liable for damages in a civil action, or denied any right or privilege for any action relating to the evaluation of clinical competency of a physician assistant pursuant to paragraph (5) of subdivision (a).
- (f) This section shall not be interpreted to authorize a person with a license or certificate to practice as a physician assistant to perform abortion by aspiration techniques after the first trimester of pregnancy.
- (g) For purposes of this section, exclusively online or simulation-based training programs that do not include mandatory clinical hours involving direct patient care shall not meet the clinical training requirements in subdivision (a).

SEC. 2.

Section 3527.5 is added to the Business and Professions Code, to read:
3527.5.

- (a) The board shall not suspend or revoke the license of a physician assistant solely for performing an abortion if the licensee performed the abortion in accordance with the provisions of this chapter and the Reproductive Privacy Act (Article 2.5 (commencing with Section 123460) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code).
- (b) Notwithstanding any other law, including, but not limited to, Sections 141, 480, 490, and 3527, the board shall not deny an application for licensure as a physician assistant, or suspend, revoke,

or otherwise impose discipline upon a person licensed in this state as a physician assistant under either of the following circumstances:

(1) The person is licensed or certified to practice as a physician assistant in another state and was disciplined in that state solely for performing an abortion in that state.

(2) The person is licensed or certified to practice as a physician assistant in another state and was convicted in that state for an offense related solely to the performance of an abortion in that state.