

Senate Bill No. 823

Passed the Senate September 8, 2021

Secretary of the Senate

Passed the Assembly September 7, 2021

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2021, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 1714.22 of the Civil Code, to amend Sections 6276.14, 6276.30, 12528, and 12528.1 of the Government Code, to amend Section 1179.80 of the Health and Safety Code, to amend Section 3823 of the Labor Code, to amend Sections 368.6 and 13515 of the Penal Code, and to amend Sections 14089.4, 14107.12, 14592, 15610.15, 15630, 15633.5, 15640, 15650, 15653.5, 15654, and 15658 of the Welfare and Institutions Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 823, Committee on Health. Public health: omnibus bill.

(1) Under existing law, a licensed health care provider who is authorized by law to prescribe an opioid antagonist may, if acting with reasonable care, prescribe and subsequently dispense or distribute an opioid antagonist to a person at risk of an opioid-related overdose or to a family member, friend, or other person in a position to assist a person at risk of an opioid-related overdose. Existing law defines “opioid antagonist” for this purpose to mean naloxone hydrochloride that is approved by the United States Food and Drug Administration for the treatment of an opioid overdose.

This bill would also include within the definition of “opioid antagonist” any other opioid antagonist that is approved by the United States Food and Drug Administration for the treatment of an opioid overdose.

Existing law requires the State Department of Public Health, subject to an appropriation in the Budget Act of 2016, to award funding to local health departments, local government agencies, or on a competitive basis to other organizations, as specified, to support or establish programs that provide naloxone to first responders and to at-risk opioid users through programs that serve at-risk drug users.

This bill, in addition to naloxone, would include any other opioid antagonist that is approved by the United States Food and Drug Administration for the treatment of an opioid overdose.

(2) Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions.

Existing law establishes the Bureau of Medi-Cal Fraud within the Office of the Attorney General. Existing law authorizes the bureau to conduct a statewide program for investigating and prosecuting, and referring for prosecution, any violation of law relating to fraud in the administration of the Medi-Cal program, the provision of medical assistance or medical supplies, or the activities of providers of medical assistance or medical suppliers under the Medi-Cal state plan. Existing law provides that the investigation of fraud by beneficiaries of the Medi-Cal program is the responsibility of the Audits and Investigations Branch of the department.

This bill would rename the Bureau of Medi-Cal Fraud as the Division of Medi-Cal Fraud and Elder Abuse, and would make various conforming changes in this regard.

(3) Existing federal law establishes the Program of All-Inclusive Care for the Elderly (PACE), which provides specified services for older individuals at a PACE center so that they may continue living in the community. Federal law authorizes states to implement PACE as a Medicaid state option. Existing state law establishes the California Program of All-Inclusive Care for the Elderly (PACE program) to provide community-based, risk-based, and capitated long-term care services as optional services under the state's Medi-Cal state plan. Existing law generally requires an adult day health care center or home health agency to be licensed by the State Department of Public Health, which is required to obtain a criminal record clearance for specified individuals who own or are employed by the adult day health care center or home health agency. Under existing law, an adult day health care center or a home health agency that has been approved by the State Department of Health Care Services to exclusively serve PACE participants is exempt from licensure by the State Department of Public Health.

Existing law requires the State Department of Health Care Services to obtain a criminal record clearance for the administrator, program director, and fiscal officer of an adult day health care

center before approving the center to exclusively serve PACE participants or individuals being assessed for the PACE program. Existing law requires each specified individual, in order to qualify for criminal record clearance, to submit electronic fingerprint images and related information required by the Department of Justice and to be responsible for any costs associated with transmitting the electronic fingerprint images. Existing law requires the fee to cover the department's processing costs, not including the costs associated with capturing or transmitting the fingerprint images and related information, not to exceed \$32 per submission to the department.

This bill would remove the \$32 limit on the processing fee and would instead require the Department of Justice to charge a fee that is sufficient to cover the department's cost of processing the criminal record check.

Under existing law, to qualify for approval as a home health agency that exclusively serves PACE participants or individuals being assessed for the PACE program, an owner or administrator of a home health agency is required to submit electronic fingerprint images, at the owner's or administrator's expense, to the Department of Justice for the furnishing of the owner's or administrator's criminal record to the State Department of Health Care Services. Existing law prohibits a facility from allowing a newly hired administrator, program director, or fiscal officer to have direct contact with clients or residents of the facility before completing the criminal record clearance process pursuant to these provisions. Existing law requires the Department of Justice to charge a fee that is sufficient to cover the department's cost of processing the criminal record check.

This bill would instead require the above-described persons who own or are employed by a home health agency to be responsible for any costs associated with transmitting the electronic fingerprint images. The bill would require the fee to cover the department's processing costs, not including the costs associated with capturing or transmitting the fingerprint images and related information, not to exceed \$32 per submission to the department.

(4) This bill would incorporate the changes to Section 6276.14 of the Government Code proposed by this bill to Section 7930.135 of the Government Code, as proposed to be added by AB 473, to

be operative, as specified, only if this bill and AB 473 are enacted and this bill is enacted last.

This bill would incorporate the changes to Section 6276.30 of the Government Code proposed by this bill to Section 7930.170 of the Government Code, as proposed to be added by AB 473, to be operative, as specified, only if this bill and AB 473 are enacted and this bill is enacted last.

This bill would incorporate additional changes to Section 15633.5 of the Welfare and Institutions Code proposed by AB 636 to be operative only if this bill and AB 636 are enacted and this bill is enacted last.

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

SECTION 1. Section 1714.22 of the Civil Code is amended to read:

1714.22. (a) For purposes of this section, the following definitions apply:

(1) “Opioid antagonist” means naloxone hydrochloride or any other opioid antagonist that is approved by the United States Food and Drug Administration for the treatment of an opioid overdose.

(2) “Opioid overdose prevention and treatment training program” means any program operated by a local health jurisdiction or that is registered by a local health jurisdiction to train individuals to prevent, recognize, and respond to an opiate overdose, and that provides, at a minimum, training in all of the following:

- (A) The causes of an opiate overdose.
- (B) Mouth to mouth resuscitation.
- (C) How to contact appropriate emergency medical services.
- (D) How to administer an opioid antagonist.

(b) A licensed health care provider who is authorized by law to prescribe an opioid antagonist may, if acting with reasonable care, prescribe and subsequently dispense or distribute an opioid antagonist to a person at risk of an opioid-related overdose or to a family member, friend, or other person in a position to assist a person at risk of an opioid-related overdose.

(c) (1) A licensed health care provider who is authorized by law to prescribe an opioid antagonist may issue standing orders for the distribution of an opioid antagonist to a person at risk of

an opioid-related overdose or to a family member, friend, or other person in a position to assist a person at risk of an opioid-related overdose.

(2) A licensed health care provider who is authorized by law to prescribe an opioid antagonist may issue standing orders for the administration of an opioid antagonist to a person at risk of an opioid-related overdose by a family member, friend, or other person in a position to assist a person experiencing or reasonably suspected of experiencing an opioid overdose.

(d) (1) A person who is prescribed or possesses an opioid antagonist pursuant to a standing order shall receive the training provided by an opioid overdose prevention and treatment training program.

(2) A person who is prescribed an opioid antagonist directly from a licensed prescriber shall not be required to receive training from an opioid prevention and treatment training program.

(e) A licensed health care provider who acts with reasonable care shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for issuing a prescription or order pursuant to subdivision (b) or (c).

(f) Notwithstanding any other law, a person who possesses or distributes an opioid antagonist pursuant to a prescription or standing order shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for this possession or distribution. Notwithstanding any other law, a person not otherwise licensed to administer an opioid antagonist, but trained as required under paragraph (1) of subdivision (d), who acts with reasonable care in administering an opioid antagonist, in good faith and not for compensation, to a person who is experiencing or is suspected of experiencing an overdose shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for this administration.

SEC. 2. Section 6276.14 of the Government Code is amended to read:

6276.14. Dairy Council of California, confidentiality of ballots, Section 64155, Food and Agricultural Code.

Death, report that physician's or podiatrist's negligence or incompetence may be cause, confidentiality of, Section 802.5, Business and Professions Code.

Dental hygienist drug and alcohol diversion program, confidentiality of records pertaining to treatment, Section 1966.5, Business and Professions Code.

Dentist advertising and referral contract exemption, Section 650.2, Business and Professions Code.

Dentist, alcohol or dangerous drug rehabilitation and diversion, confidentiality of records, Section 1698, Business and Professions Code.

Department of Consumer Affairs licensee exemption for alcohol or dangerous drug treatment and rehabilitation records, Section 156.1, Business and Professions Code.

Department of Human Resources, confidentiality of pay data furnished to, Section 19826.5.

Department of Motor Vehicles, confidentiality of information provided by an insurer, Section 4750.4, Vehicle Code.

Department of Motor Vehicles, confidentiality of the home address of specified persons in the records of the Department of Motor Vehicles, Section 1808.6, Vehicle Code.

Developmentally disabled conservatee confidentiality of reports and records, Sections 416.8 and 416.18, Health and Safety Code.

Developmentally disabled person, access to information provided by family member, Section 4727, Welfare and Institutions Code.

Developmentally disabled person and person with mental illness, access to and release of information about, by protection and advocacy agency, Section 4903, Welfare and Institutions Code.

Developmentally disabled person, confidentiality of patient records, state agencies, Section 4553, Welfare and Institutions Code.

Developmentally disabled person, confidentiality of records and information, Sections 4514 and 4518, Welfare and Institutions Code.

Diesel Fuel Tax information, disclosure prohibited, Section 60609, Revenue and Taxation Code.

Disability compensation, confidential medical records, Section 2714, Unemployment Insurance Code.

Disability insurance, access to registered information, Section 789.7, Insurance Code.

Discrimination complaint to Division of Labor Standards Enforcement, confidentiality of witnesses, Section 98.7, Labor Code.

Dispute resolution participants confidentiality, Section 471.5, Business and Professions Code.

Division of Medi-Cal Fraud and Elder Abuse, confidentiality of complaints, Section 12528.

Division of Workers' Compensation, confidentiality of data obtained by the administrative director and derivative works created by the division, Sections 3201.5, 3201.7, and 3201.9, Labor Code.

Division of Workers' Compensation, individually identifiable information and residence addresses obtained or maintained by the division on workers' compensation claims, confidentiality of, Section 138.7, Labor Code.

Division of Workers' Compensation, individually identifiable information of health care organization patients, confidentiality of, Section 4600.5, Labor Code.

Division of Workers' Compensation, individual workers' compensation claim files and auditor's working papers, confidentiality of, Section 129, Labor Code.

Division of Workers' Compensation, peer review proceedings and employee medical records, confidentiality of, Section 4600.6, Labor Code.

Domestic violence counselor and victim, confidentiality of communication, Sections 1037.2 and 1037.5, Evidence Code.

Driver arrested for traffic violation, notice of reexamination for evidence of incapacity, confidentiality of, Section 40313, Vehicle Code.

Driving school and driving instructor licensee records, confidentiality of, Section 11108, Vehicle Code.

SEC. 2.5. Section 7930.135 of the Government Code, as proposed to be added by AB 473 of the 2021–22 Regular Session, is amended to read:

7930.135. The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:

Dairy Council of California, confidentiality of ballots, Section 64323, Food and Agricultural Code.

Death, report that physician's or podiatrist's negligence or incompetence may be cause, confidentiality of, Section 802.5, Business and Professions Code.

Dental hygienist drug and alcohol diversion program, confidentiality of records pertaining to treatment, Section 1966.5, Business and Professions Code.

Dentist advertising and referral contract exemption, Section 650.2, Business and Professions Code.

Dentist, alcohol or dangerous drug rehabilitation and diversion, confidentiality of records, Section 1698, Business and Professions Code.

Department of Consumer Affairs licensee exemption for alcohol or dangerous drug treatment and rehabilitation records, Section 156.1, Business and Professions Code.

Department of Human Resources, confidentiality of pay data furnished to, Section 19826.5, this code.

Department of Motor Vehicles, confidentiality of information provided by an insurer, Section 4750.4, Vehicle Code.

Department of Motor Vehicles, confidentiality of the home address of specified persons in the records of the Department of Motor Vehicles, Section 1808.6, Vehicle Code.

Developmentally disabled conservatee, confidentiality of reports and records, Sections 416.8 and 416.18, Health and Safety Code.

Developmentally disabled person, access to information provided by family member, Section 4727, Welfare and Institutions Code.

Developmentally disabled person and person with mental illness, access to and release of information about, by protection and advocacy agency, Section 4903, Welfare and Institutions Code.

Developmentally disabled person, confidentiality of patient records, state agencies, Section 4552.5, Welfare and Institutions Code.

Developmentally disabled person, confidentiality of records and information, Sections 4514 and 4518, Welfare and Institutions Code.

Diesel Fuel Tax information, disclosure prohibited, Section 60609, Revenue and Taxation Code.

Disability compensation, confidential medical records, Section 2714, Unemployment Insurance Code.

Disability insurance, access to registered information, Section 789.7, Insurance Code.

Discrimination complaint to Division of Labor Standards Enforcement, confidentiality of witnesses, Section 98.7, Labor Code.

Dispute resolution participants confidentiality, Section 471.5, Business and Professions Code.

Division of Medi-Cal Fraud and Elder Abuse, confidentiality of complaints, Section 12528.

Division of Workers' Compensation, confidentiality of data obtained by the administrative director and derivative works created by the division, Sections 3201.5, 3201.7, and 3201.9, Labor Code.

Division of Workers' Compensation, individually identifiable information and residence addresses obtained or maintained by the division on workers' compensation claims, confidentiality of, Section 138.7, Labor Code.

Division of Workers' Compensation, individually identifiable information of health care organization patients, confidentiality of, Section 4600.5, Labor Code.

Division of Workers' Compensation, individual workers' compensation claim files and auditor's working papers, confidentiality of, Section 129, Labor Code.

Division of Workers' Compensation, peer review proceedings and employee medical records, confidentiality of, Section 4600.6, Labor Code.

Domestic violence counselor and victim, confidentiality of communication, Sections 1037.2 and 1037.5, Evidence Code.

Driver arrested for traffic violation, notice of reexamination for evidence of incapacity, confidentiality of, Section 40313, Vehicle Code.

Driving school and driving instructor licensee records, confidentiality of, Section 11108, Vehicle Code.

SEC. 3. Section 6276.30 of the Government Code is amended to read:

6276.30. Managed care health plans, confidentiality of proprietary information, Section 14091.3 of the Welfare and Institutions Code.

Managed Risk Medical Insurance Board, negotiations with entities contracting or seeking to contract with the board, subdivisions (v) and (y) of Section 6254.

Mandated blood testing and confidentiality to protect public health, prohibition against compelling identification of test subjects, Section 120975 of the Health and Safety Code.

Mandated blood testing and confidentiality to protect public health, unauthorized disclosures of identification of test subjects,

Sections 1603.1, 1603.3, and 121022 of the Health and Safety Code.

Mandated blood testing and confidentiality to protect public health, disclosure to patient's spouse, sexual partner, needle sharer, or county health officer, Section 121015 of the Health and Safety Code.

Manufactured home, mobilehome, floating home, confidentiality of home address of registered owner, Section 18081 of the Health and Safety Code.

Marital confidential communications, Sections 980, 981, 982, 983, 984, 985, 986, and 987 of the Evidence Code.

Market reports, confidential, subdivision (e) of Section 6254.

Marketing of commodities, confidentiality of financial information, Section 58781 of the Food and Agricultural Code.

Marketing orders, confidentiality of processors' or distributors' information, Section 59202 of the Food and Agricultural Code.

Marriage, confidential, certificate, Section 511 of the Family Code.

Medi-Cal Benefits Program, confidentiality of information, Section 14100.2 of the Welfare and Institutions Code.

Medi-Cal Benefits Program, Request of Department for Records of Information, Section 14124.89 of the Welfare and Institutions Code.

Medi-Cal managed care program, exemption from disclosure for financial and utilization data submitted by Medi-Cal managed care health plans to establish rates, Section 14301.1 of the Welfare and Institutions Code.

Medi-Cal program, exemption from disclosure for best price contracts between the State Department of Health Care Services and drug manufacturers, Section 14105.33 of the Welfare and Institutions Code.

Medical information, disclosure by provider unless prohibited by patient in writing, Section 56.16 of the Civil Code.

Medical information, types of information not subject to patient prohibition of disclosure, Section 56.30 of the Civil Code.

Medical and other hospital committees and peer review bodies, confidentiality of records, Section 1157 of the Evidence Code.

Medical or dental licensee, action for revocation or suspension due to illness, report, confidentiality of, Section 828 of the Business and Professions Code.

Medical or dental licensee, disciplinary action, denial or termination of staff privileges, report, confidentiality of, Sections 805, 805.1, and 805.5 of the Business and Professions Code.

Meetings of state agencies, disclosure of agenda, Section 11125.1.

Mentally abnormal sex offender committed to state hospital, confidentiality of records, Section 4135 of the Welfare and Institutions Code.

Mentally disordered and developmentally disabled offenders, access to criminal histories of, Section 1620 of the Penal Code.

Mentally disordered persons, court-ordered evaluation, confidentiality of reports, Section 5202 of the Welfare and Institutions Code.

Mentally disordered or mentally ill person, confidentiality of written consent to detainment, Section 5326.4 of the Welfare and Institutions Code.

Mentally disordered or mentally ill person, voluntarily or involuntarily detained and receiving services, confidentiality of records and information, Sections 5328, 5328.15, 5328.2, 5328.4, 5328.8, and 5328.9 of the Welfare and Institutions Code.

Mentally disordered or mentally ill person, weapons restrictions, confidentiality of information about, Section 8103 of the Welfare and Institutions Code.

Milk marketing, confidentiality of records, Section 61443 of the Food and Agricultural Code.

Milk product certification, confidentiality of, Section 62121 of the Food and Agricultural Code.

Milk, market milk, confidential records and reports, Section 62243 of the Food and Agricultural Code.

Milk product registration, confidentiality of information, Section 38946 of the Food and Agricultural Code.

Milk equalization pool plan, confidentiality of producers' voting, Section 62716 of the Food and Agricultural Code.

Mining report, confidentiality of report containing information relating to mineral production, reserves, or rate of depletion of mining operation, Section 2207 of the Public Resources Code.

Minor, criminal proceeding testimony closed to public, Section 859.1 of the Penal Code.

Minors, material depicting sexual conduct, records of suppliers to be kept and made available to law enforcement, Section 1309.5 of the Labor Code.

Misdemeanor and felony reports by police chiefs and sheriffs to Department of Justice, confidentiality of, Sections 11107 and 11107.5 of the Penal Code.

Monetary instrument transaction records, confidentiality of, Section 14167 of the Penal Code.

Missing persons' information, disclosure of, Sections 14204 and 14205 of the Penal Code.

Morbidity and mortality studies, confidentiality of records, Section 100330 of the Health and Safety Code.

Motor vehicle accident reports, disclosure, Sections 16005, 20012, and 20014 of the Vehicle Code.

Motor vehicles, department of, public records, exceptions, Sections 1808 to 1808.7, inclusive, of the Vehicle Code.

Motor vehicle insurance fraud reporting, confidentiality of information acquired, Section 1874.3 of the Insurance Code.

Motor vehicle liability insurer, data reported to Department of Insurance, confidentiality of, Section 11628 of the Insurance Code.

Multijurisdictional drug law enforcement agency, closed sessions to discuss criminal investigation, Section 54957.8.

SEC. 3.5. Section 7930.170 of the Government Code, as proposed to be added by AB 473 of the 2021–22 Regular Session, is amended to read:

7930.170. The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:

Managed Risk Medical Insurance Board, negotiations with entities contracting or seeking to contract with the board, Sections 7926.225 and 7926.230, this code.

Mandated blood testing and confidentiality to protect public health, prohibition against compelling identification of test subjects, Section 120975, Health and Safety Code.

Mandated blood testing and confidentiality to protect public health, unauthorized disclosures of identification of test subjects, Sections 1603.1, 1603.3, and 121022, Health and Safety Code.

Mandated blood testing and confidentiality to protect public health, disclosure to patient's spouse, sexual partner, needle sharer, or county health officer, Section 121015, Health and Safety Code.

Manufactured home, mobilehome, floating home, confidentiality of home address of registered owner, Section 18081, Health and Safety Code.

Marital confidential communications, Sections 980, 981, 982, 983, 984, 985, 986, and 987, Evidence Code.

Market reports, confidential, Section 7927.300, this code.

Marketing of commodities, confidentiality of financial information, Section 58781, Food and Agricultural Code.

Marketing orders, confidentiality of processors' or distributors' information, Section 59202, Food and Agricultural Code.

Marriage, confidential, certificate, Section 511, Family Code.

Medi-Cal Benefits Program, confidentiality of information, Section 14100.2, Welfare and Institutions Code.

Medi-Cal Benefits Program, request of department for records or information, Section 14124.89, Welfare and Institutions Code.

Medi-Cal managed care program, exemption from disclosure for financial and utilization data submitted by Medi-Cal managed care health plans to establish rates, Section 14301.1, Welfare and Institutions Code.

Medi-Cal program, exemption from disclosure for best price contracts between the State Department of Health Care Services and drug manufacturers, Section 14105.33, Welfare and Institutions Code.

Medical information, disclosure by provider unless prohibited by patient in writing, Section 56.16, Civil Code.

Medical information, types of information not subject to patient prohibition of disclosure, Section 56.30, Civil Code.

Medical and other hospital committees and peer review bodies, confidentiality of records, Section 1157, Evidence Code.

Medical or dental licensee, action for revocation or suspension due to illness, report, confidentiality of, Section 828, Business and Professions Code.

Medical or dental licensee, disciplinary action, denial or termination of staff privileges, report, confidentiality of, Sections 805, 805.1, and 805.5, Business and Professions Code.

Meetings of state agencies, disclosure of agenda, Section 11125.1, this code.

Mentally abnormal sex offender committed to state hospital, confidentiality of records, Section 4135, Welfare and Institutions Code.

Mentally disordered and developmentally disabled offenders, access to criminal histories of, Section 1620, Penal Code.

Mentally disordered persons, court-ordered evaluation, confidentiality of reports, Section 5202, Welfare and Institutions Code.

Mentally disordered or mentally ill person, confidentiality of written consent to detainment, Section 5326.4, Welfare and Institutions Code.

Mentally disordered or mentally ill person, voluntarily or involuntarily detained and receiving services, confidentiality of records and information, Sections 5328, 5328.15, 5328.2, 5328.4, 5328.8, and 5328.9, Welfare and Institutions Code.

Mentally disordered or mentally ill person, weapons restrictions, confidentiality of information about, Section 8103, Welfare and Institutions Code.

Milk marketing, confidentiality of records, Section 61443, Food and Agricultural Code.

Milk product certification, confidentiality of, Section 62121, Food and Agricultural Code.

Milk, market milk, confidential records and reports, Section 62243, Food and Agricultural Code.

Milk product registration, confidentiality of information, Section 38946, Food and Agricultural Code.

Milk equalization pool plan, confidentiality of producers' voting, Section 62716, Food and Agricultural Code.

Mining report, confidentiality of report containing information relating to mineral production, reserves, or rate of depletion of mining operation, Section 2207, Public Resources Code.

Minor, criminal proceeding testimony closed to public, Section 859.1, Penal Code.

Minors, material depicting sexual conduct, records of suppliers to be kept and made available to law enforcement, Section 1309.5, Labor Code.

Misdemeanor and felony reports by police chiefs and sheriffs to Department of Justice, confidentiality of, Sections 11107 and 11107.5, Penal Code.

Monetary instrument transaction records, confidentiality of, Section 14167, Penal Code.

Missing persons' information, disclosure of, Sections 14204 and 14205, Penal Code.

Morbidity and mortality studies, confidentiality of records, Section 100330, Health and Safety Code.

Motor vehicle accident reports, disclosure, Sections 16005, 20012, and 20014, Vehicle Code.

Motor Vehicles, Department of, public records, exceptions, Sections 1808 to 1808.7, inclusive, Vehicle Code.

Motor vehicle insurance fraud reporting, confidentiality of information acquired, Section 1874.3, Insurance Code.

Motor vehicle liability insurer, data reported to Department of Insurance, confidentiality of, Section 11628, Insurance Code.

Multijurisdictional drug law enforcement agency, closed sessions to discuss criminal investigation, Section 54957.8, this code.

SEC. 4. Section 12528 of the Government Code is amended to read:

12528. (a) There is in the Office of the Attorney General the Division of Medi-Cal Fraud and Elder Abuse, which shall implement Sections 1903(a)(6), 1903(b)(3), and 1903(g) of the federal Social Security Act, as amended by the federal Medicare-Medicaid Anti-Fraud and Abuse Amendments (Public Law 95-142), and is authorized to conduct a statewide program for investigating and prosecuting, and referring for prosecution, violations of all applicable laws pertaining to fraud in the administration of the Medi-Cal program, the provision of medical assistance or medical supplies, or the activities of providers of medical assistance or medical suppliers under the Medi-Cal state plan. The investigation of fraud by beneficiaries of the Medi-Cal program shall be the responsibility of the Audits and Investigations Branch of the State Department of Health Care Services.

(b) The division shall also review complaints alleging abuse or neglect of patients in health care facilities receiving payments under the Medi-Cal state plan, and may review complaints of the misappropriation of patient's private funds in those facilities and complaints of discriminatory treatment of Medi-Cal beneficiaries by those facilities.

(1) If the initial review indicates substantial potential for criminal prosecution, the division shall investigate the complaint or refer it to an appropriate criminal investigative or prosecutive authority.

(2) If the initial review does not indicate a substantial potential for criminal prosecution, the division shall inform the referring

agency of its determination and may, if appropriate, refer the complaint to the State Department of Health Care Services.

(c) Local law enforcement and prosecution agencies shall have concurrent jurisdiction with the division to investigate and prosecute violations of law specified in this section.

(d) If the division, in carrying out its duties and responsibilities under subdivisions (a) and (b), discovers that overpayments have been made to a health care facility or other provider of medical assistance or medical supplies under the Medi-Cal state plan, the division shall either attempt to collect the overpayment or refer the matter to the State Department of Health Care Services for collection.

(e) Where a prosecuting authority other than the division elects to prosecute a case reported to the division, the division shall, upon request of that prosecuting authority, ensure that those responsible for the prosecutive decision and the preparation of the case for trial have the opportunity to participate in the investigation from its inception and shall provide all necessary assistance to the prosecuting authority throughout all resulting prosecutions.

(f) The division shall make available to federal investigators or prosecutors all information in its possession concerning fraud in the provision or administration of medical assistance under the Medi-Cal state plan, and shall cooperate with officials in coordinating any federal and state investigations or prosecutions involving the same suspects or allegations.

(g) The division shall safeguard the privacy rights of all individuals and shall provide safeguards to prevent the misuse of information under its control. Agencies that are required to report complaints alleging abuse or neglect of patients shall maintain the confidentiality of those reports until a time that the report becomes a matter of public record.

(h) The division shall offer training programs to local law enforcement and prosecutorial personnel in investigating and prosecuting crimes against elders and dependent adults. The division shall offer training programs to the State Department of Health Care Services, the State Department of Social Services, the county adult protective services agencies, and the Long-Term Care Ombudsman in evaluating and documenting criminal abuse against elders and dependent adults.

(i) The state Long-Term Care Ombudsman, the Licensing and Certification Division in the State Department of Health Care Services, and the Statistical Services Bureau in the State Department of Social Services shall report to the division all instances of abuse and neglect of elders and dependent adults, as defined in Section 15610 of the Welfare and Institutions Code, which come to their attention.

(j) The division shall collect information on a statewide basis regarding cases of abuse and neglect of patients in health facilities receiving payments from the Medi-Cal program for the primary purpose of analyzing the information it collects and disseminating its conclusions to local law enforcement agencies and to regulatory and licensing authorities.

(k) For purposes of this section, “division” means the Division of Medi-Cal Fraud and Elder Abuse in the Office of the Attorney General.

SEC. 5. Section 12528.1 of the Government Code is amended to read:

12528.1. (a) An agent, investigator, or auditor of the Division of Medi-Cal Fraud and Elder Abuse within the office of the Attorney General shall have the authority to inspect, at any time, the business location of any Medi-Cal provider for the purpose of carrying out the duties of the division as set forth in Section 12528. For purposes of this subdivision, “provider” includes an applicant as defined in Section 14043.1 of the Welfare and Institutions Code and a billing agent, as defined in Section 14040.1 of the Welfare and Institutions Code.

(b) The department shall provide all investigators and auditors assigned to lead a facility inspection team of a health facility licensed under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code with basic training on the relevant statutes and regulations governing the types of facilities to be inspected. Unless it is impracticable, the training shall include a facility tour, unrelated to an actual inspection, to observe the operations of the type of facilities to be inspected.

(c) The Division of Medi-Cal Fraud and Elder Abuse shall develop protocols to ensure that inspections conducted pursuant to this section are conducted during normal business hours and are completed in the least intrusive manner possible.

SEC. 6. Section 1179.80 of the Health and Safety Code is amended to read:

1179.80. (a) In order to reduce the rate of fatal overdose from opioid drugs including heroin and prescription opioids, the State Department of Public Health shall, subject to an appropriation for this purpose in the Budget Act of 2016, award funding to local health departments, local government agencies, or on a competitive basis to community-based organizations, regional opioid prevention coalitions, or both, to support or establish programs that provide naloxone, or any other opioid antagonist that is approved by the United States Food and Drug Administration for the treatment of an opioid overdose, to first responders and to at-risk opioid users through programs that serve at-risk drug users, including, but not limited to, syringe exchange and disposal programs, homeless programs, and substance use disorder treatment providers.

(b) The department may award grants itself or enter into contracts to carry out the provisions of subdivision (a). The award of contracts and grants is exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and is exempt from approval by the Department of General Services prior to their execution.

(c) Not more than 10 percent of the funds appropriated shall be available to the department for its administrative costs in implementing this section. If deemed necessary by the department, the department may allocate funds to other state departments to assist in the implementation of subdivision (a).

SEC. 7. Section 3823 of the Labor Code is amended to read:

3823. (a) The administrative director, in coordination with the Bureau of Fraudulent Claims of the Department of Insurance, the Medi-Cal Fraud Task Force, and the Division of Medi-Cal Fraud and Elder Abuse of the Department of Justice, or their successor entities, shall adopt protocols, to the extent that these protocols are applicable to achieve the purpose of subdivision (b), similar to those adopted by the Department of Insurance concerning medical billing and provider fraud.

(b) An insurer, self-insured employer, third-party administrator, workers' compensation administrative law judge, audit unit, attorney, or other person that believes that a fraudulent claim has been made by any person or entity providing medical care, as

described in Section 4600, shall report the apparent fraudulent claim in the manner prescribed by subdivision (a).

(c) An insurer, self-insured employer, third-party administrator, workers' compensation administrative law judge, audit unit, attorney, or other person that reports any apparent fraudulent claim under this section shall not be subject to any civil liability in a cause of action of any kind when the insurer, self-insured employer, third-party administrator, workers' compensation administrative law judge, audit unit, attorney, or other person acts in good faith, without malice, and reasonably believes that the action taken was warranted by the known facts, obtained by reasonable efforts. This section does not abrogate or lessen the existing common law or statutory privileges and immunities of an insurer, self-insured employer, third-party administrator, workers' compensation administrative law judge, audit unit, attorney, or other person.

SEC. 8. Section 368.6 of the Penal Code is amended to read:

368.6. (a) This section shall be known, and may be cited, as the Senior and Disability Justice Act.

(b) As used in this section, the following definitions apply:

(1) "Agency protocol" means a procedure adopted by a local law enforcement agency consistent with the agency's organizational structure, and stated in a policy adopted pursuant to this section, to effectively and accountably carry out a particular agency responsibility.

(2) "Caretaker" has the same meaning as defined in Section 368 and includes caretakers whether or not they are paid.

(3) "Dependent adult" has the same meaning as defined in Section 368.

(4) "Dependent person" has the same meaning as defined in Section 288.

(5) "Disability" includes mental disability and physical disability as defined in Sections 12926 and 12926.1 of the Government Code, regardless of whether those disabilities are temporary, permanent, congenital, or acquired by heredity, accident, injury, illness, or advanced age.

(6) "Domestic violence" has the same meaning as defined in Section 13700 and includes a violation of Section 273.5.

(7) "Elder" has the same meaning as defined in Section 368.

(8) "Elder and dependent adult abuse" means a violation of Section 368 and includes physical abuse, neglect, financial abuse,

abandonment, isolation, abduction, or other treatment with resulting physical harm, pain, or mental suffering, or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.

(9) “Hate crime” has the same meaning as set forth in Sections 422.55 and 422.56.

(10) “Human trafficking” means a violation of Section 236.1.

(11) “Local law enforcement agency” means every municipal police department and county sheriffs’ department.

(12) “Mandated reporting requirements” means any of the following:

(A) The requirements of Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4.

(B) The requirements of Sections 15630 and 15630.1 and subdivision (d) of Section 15640 of the Welfare and Institutions Code concerning reporting of elder and dependent adult abuse.

(C) The prohibitions on inhibiting or impeding reporting pursuant to the requirements in subparagraph (A) or (B).

(13) “Senior and disability victimization” means any of the following:

(A) Elder and dependent adult abuse.

(B) Unlawful interference with a mandated report.

(C) Homicide of an elder, dependent adult, or other adult or child with a disability.

(D) Sex crimes against an elder, dependent adult, or other adult or child with a disability.

(E) Child abuse of children with disabilities.

(F) Violation of relevant protective orders.

(G) Hate crimes against persons with actual or perceived disabilities, including, but not limited to, disabilities caused by advanced age, or those associated with them.

(H) Domestic violence against an elder, dependent adult, or other adult or child with a disability, including any disability caused by advanced age.

(14) “Relevant protective order” means an order by a California or out-of-state court, including, but not limited to, a tribal, federal, United States territorial, or United States military court, protecting an elder, dependent adult, dependent person, or other adult or child with a disability.

(15) “Responsible agency” means a local, state, or federal agency with responsibilities concerning senior and disability victimization. This includes, but is not limited to, law enforcement agencies, adult protective services agencies, child protective services agencies, the Office of the State Long-Term Care Ombudsman and its designated local agencies, fire and emergency medical services, regional centers pursuant to the Lanterman Developmental Disabilities Services Act, elder and disability service agencies, sexual assault and domestic violence agencies, elder and dependent adult death review teams, local government human relations commissions, coroners, probate court investigators, public administrators, public guardians, public conservators, district attorney’s offices, city attorney’s offices or other prosecutors with jurisdiction, the Division of Medi-Cal Fraud and Elder Abuse, state licensing agencies, the United States Attorney’s offices, and the Federal Bureau of Investigation.

(16) “Sex crime” means either of the following:

(A) An offense requiring registration pursuant to the Sex Offender Registration Act.

(B) A violation of Section 729 of the Business and Professions Code.

(17) “State protection and advocacy agency” means the agency designated pursuant to Division 4.7 (commencing with Section 4900) of the Welfare and Institutions Code.

(18) “Unlawful interference in a mandated report” includes, but is not limited to, inhibiting or impeding reporting in violation of the mandated reporting requirements or a violation of Section 136.1 that concerns the mandated reporting requirements.

(c) Each local law enforcement agency may adopt a policy regarding senior and disability victimization. A municipal police department or county sheriffs’ department that adopts or revises a policy regarding elder and dependent adult abuse or senior and disability victimization on or after April 13, 2021, shall include, but not be limited to, all of the following items:

(1) Information on the wide prevalence of elder and dependent adult abuse, sexual assault, other sex crimes, hate crimes, domestic violence, human trafficking, and homicide against adults and children with disabilities, including disabilities caused by advanced age, and including those crimes often committed by caretakers.

(2) A statement of the agency's commitment to providing equal protection and demonstrating respect for all persons regardless of age or disabilities, and to conscientiously enforcing all criminal laws protecting elders, and adults and children with disabilities, regardless of whether these crimes also carry civil penalties.

(3) The definitions and elements of the offenses specified in paragraph (2) of subdivision (b) of Section 288 and in subdivisions (c) and (f) of Section 368, noting that they protect many persons with disabilities regardless of the fact they live independently.

(4) (A) The fact that elder and dependent adult abuse, sex crimes, child abuse, domestic violence, and any other criminal act, when committed in whole or in part because of the victim's actual or perceived disability, including disability caused by advanced age, is also a hate crime.

(B) In recognizing suspected disability-bias hate crimes, the policy shall instruct officers to consider whether there is any indication that the perpetrator committed the criminal act because of bias, including, but not limited to, the bias motivations described in subparagraphs (B) and (C) of paragraph (3) of subdivision (a) of Section 422.87.

(5) An agency protocol and schedule for training officers with both of the following:

(A) The training materials made available by the Commission on Peace Officer Standards and Training pursuant to Sections 13515, 13515.25, 13515.27, 13515.28, 13515.29, 13515.295, 13515.30, 13515.35, and 13519.2. In the case of the training materials identified in each of these sections, the agency protocol shall require the training for, at a minimum, the category of officers for whom that section states that the training is intended or required or, if the section does not state for whom the training material is required or intended, those officers identified pursuant to paragraph (16).

(B) The agency's policy pursuant to this section.

(6) A requirement that when an officer intends to interview a victim or witness to an alleged crime and the victim or witness reports or demonstrates deafness or hearing loss, the officer first secure the services of an interpreter as defined in Section 754 of the Evidence Code. The agency shall have a protocol for securing the services of the interpreter to ensure accurate interpretation.

(7) An agency protocol for providing appropriate training concerning the agency's policy to dispatchers, community services officers, front desk personnel, and other civilian personnel who interact with the public.

(8) (A) The fact that the agency requires officers to investigate every report of senior and disability victimization, and does not dismiss any reports as merely civil matters or for any other reason without an investigation.

(B) An appendix to the policy describing the requirements for these investigations, including, but not limited to, all of the following:

(i) An agency protocol or protocols for cooperating and collaborating whenever possible with the Division of Medi-Cal Fraud and Elder Abuse, other state law enforcement agencies with jurisdiction, adult and child protective services, local long-term care ombudsman programs, and, when appropriate, other responsible agencies.

(ii) Appropriate techniques for interviewing potential victims and witnesses with cognitive or communication disabilities, including, but not limited to, avoiding repeated interviews when possible.

(iii) The elements of the investigation, including, but not limited to, all of the following:

(I) Checking prior reports received by adult or child protective services agencies, local long-term care ombudsman programs, except as provided in Section 9725 of the Welfare and Institutions Code, and any other responsible agencies.

(II) Interviewing each alleged victim, each witness, and each suspect who is available.

(III) Viewing all body-worn camera videos and all other films.

(IV) Listening to all calls from mandated reports or other callers.

(V) Making reasonable efforts to determine whether any person committed unlawful interference in a mandated report.

(iv) An agency protocol for transmitting the crime report to the appropriate prosecution office if the law enforcement agency recommends prosecution.

(v) If the agency deems it appropriate, the Investigation Response section and Addendum B of the San Diego County Elder and Dependent Adult Abuse Blueprint or the Elder Abuse Guide

for Law Enforcement of the National Center on Elder Abuse at the University of Southern California.

(9) (A) A statement that it is the agency’s policy to make arrests or to seek arrest warrants, in accordance with Section 836, and, in the case of domestic violence, as allowed by Section 13701. The policy shall also state the agency protocol for seeking those arrest warrants.

(B) The agency protocol for arrests for senior and disability victimization other than domestic violence, which shall include, but not be limited to, the following requirements:

(i) In the case of a senior and disability victimization committed in an officer’s presence, including, but not limited to, a violation of a relevant protective order, the officer shall make a warrantless arrest based on probable cause when necessary or advisable to protect the safety of the victim or others.

(ii) In the case of a felony not committed in an officer’s presence, the officer shall make a warrantless arrest based on probable cause when necessary or advisable to protect the safety of the victim or others.

(iii) In the case of a misdemeanor not committed in the officer’s presence, including, but not limited to, misdemeanor unlawful interference with a mandated report or a misdemeanor violation of a relevant protective order, or when necessary or advisable to protect the safety of the victim or others, the agency shall seek an arrest warrant based on probable cause.

(iv) The policy shall state the agency protocol for seeking arrest warrants based on probable cause for crimes for which no arrest has been made.

(10) The fact that senior and disability victimization crimes are also domestic violence subject to the mandatory arrest requirements of Section 836 if they meet the elements described in Section 273.5, including, but not limited to, a violation by a caretaker or other person who is or was a cohabitant of the victim, regardless of whether the cohabitant is or was a relative of, or in an intimate personal relationship with, the victim.

(11) (A) The fact that many victims of sexual assault and other sex crimes delay disclosing the crimes for reasons including, but not limited to, shame, embarrassment, self-doubt, fear of being disbelieved, and fear of retaliation by the perpetrator or others.

(B) An instruction pursuant to Sections 264.2 and 679.04 to notify potential victims of sex crimes that they have a right to have a support person of their choice present at all times.

(12) The agency's cross-reporting requirements, including, but not limited to, those pursuant to Section 15640 of the Welfare and Institutions Code, and an agency protocol for carrying out these cross-reporting requirements.

(13) Mandated reporting requirements, including, but not limited to, officers' mandated reporting responsibilities and an agency protocol for carrying out the officers' mandated reporting responsibilities.

(14) The fact that victims and witnesses with disabilities, including cognitive and communication disabilities, can be highly credible witnesses when interviewed appropriately by trained officers or other trained persons.

(15) A procedure for first-responding officers to follow when interviewing persons with cognitive and communication disabilities until officers, or staff of other responsible agencies, with more advanced training, are available. The procedure shall include an instruction to avoid repeated interviews whenever possible.

(16) The unit or office, or multiple units or offices of the agency, or the title or titles of an officer or officers, tasked with the following responsibilities:

(A) Receiving advanced officer training on senior and disability victimization, available from the Commission on Peace Officer Standards and Training, the United States Department of Justice, the Disability and Abuse Project of the Spectrum Institute, or other sources.

(B) Acting as a liaison to other responsible agencies to increase cooperation and collaboration among them while retaining the law enforcement agency's exclusive responsibility for criminal investigations.

(C) Reaching out to the senior and disability communities and to the public to encourage prevention and reporting of senior and disability victimization.

(17) An agency protocol for seeking emergency protective orders by phone from a court at any time of the day or night pursuant to subdivision (d) of Section 6250 of the Family Code, including the court system telephone number for an officer to call, and a

requirement that an officer utilize the agency protocol whenever necessary or advisable to protect a victim’s safety.

(18) A requirement that all officers treat an unexplained or suspicious death of an elder, dependent adult, or other adult or child with a disability as a potential homicide until a complete investigation, including an autopsy, is completed, and not to assume that the death of an elder or person with a disability is natural simply because of the age or disability of the deceased.

(19) A requirement that, whenever an officer verifies that a relevant protective order has been issued, the officer shall make reasonable efforts to determine if the order prohibits the possession of firearms or requires the relinquishment of firearms, and if the order does so, a requirement that the officer shall make reasonable efforts to do each of the following:

(A) Inquire whether the restrained person possesses firearms. The officer may make this effort by asking the restrained person and the protected person.

(B) Query through the California Law Enforcement Telecommunications System to determine if any firearms are registered to the restrained person.

(C) Receive or seize prohibited firearms located in plain view or pursuant to a consensual or other lawful search, in compliance with Division 4 (commencing with Section 18250) of Title 2 of Part 6.

(20) Civil remedies and resources available to victims, including, but not limited to, the program administered by the California Victim Compensation Board.

(21) The complete contents of any model policy on senior and disability victimization that the Commission on Peace Officer Standards and Training may develop based on this section, regardless of whether that model policy includes items in addition to those listed in this section.

(22) Use of the full term “elder and dependent adult abuse” in every reference to that crime, with no shorthand terms, including, but not limited to, “elder abuse” or “adult abuse.”

(23) A detailed checklist of first-responding officers’ responsibilities, including, but not limited to, all of the following:

(A) Taking responsibility for the safety and well-being of the potential victims and witnesses and treating all potential victims, witnesses, and suspects with dignity and respect.

(B) Complying with the provisions of the agency's policy requirements for arrests and mandatory seeking of arrest warrants pursuant to paragraph (9) and the requirements for seeking emergency protective orders pursuant to paragraph (17).

(C) Following the policy's guidelines for interviewing persons with cognitive or communication disabilities pursuant to paragraph (15).

(D) Recognizing that some elders and adults and children with cognitive or communication disabilities may have difficulty narrating events, appear to be poor historians, or lack short-term memory, which adds to their vulnerability and therefore requires officers to make special efforts to provide them with equal protection.

(E) Documenting the scene.

(F) Obtaining a signed medical release from potential victims.

(G) Interviewing caretakers separately, recognizing that in some cases, the caretaker is the perpetrator.

(H) Recognizing that victim cooperation is sometimes unnecessary for prosecution, and that in some cases allowing victims the option of preventing prosecution creates an opportunity for the perpetrators to obstruct justice by pressuring or threatening the victims. Each dispatch call or case should be investigated on its own evidential merits.

(I) Taking other actions necessary to comply with the provisions of the law enforcement agency's policy pursuant to this section.

(24) The relevant content of any memoranda of understanding or similar agreements or procedures for cooperating with other responsible agencies, consistent with Section 368.5.

(25) A statement of the agency chief executive's responsibilities, including, but not limited to, all of the following:

(A) Taking leadership within the agency and in the community, including by speaking out publicly in major cases of senior and disability victimization, to assure the community of the agency's support for the victims and their families and for others in the community who are terrorized and traumatized by the crimes, and to encourage victims and witnesses to the crimes or similar past or future crimes to report those crimes to help bring the perpetrators to justice and prevent further crimes.

(B) Carrying out specific responsibilities pursuant to this subdivision, including, but not limited to, developing and including agency protocols in this policy.

(C) Ensuring that all officers and staff carry out their responsibilities under the policy.

(26) An agency protocol for transmitting and periodically retransmitting the policy and any related orders to all officers, including a simple and immediate way for officers to access the policy in the field when needed.

(27) (A) A requirement that all officers be familiar with the policy and carry out the policy at all times except in the case of unusual compelling circumstances as determined by the agency's chief executive or by another supervisory or command-level officer designated by the chief executive.

(B) A responsible officer who makes a determination allowing a deviation from the policy shall produce a report to the agency's chief executive stating the unusual compelling circumstances. The policy shall include an agency protocol for providing copies of those reports to the alleged victims and reporting parties. The chief executive shall retain the report for a minimum of five years and shall make it available to the state protection and advocacy agency upon request.

(28) For each agency protocol, either a specific title-by-title list of officers' responsibilities, or a specific office or unit in the law enforcement agency responsible for implementing the protocol.

(d) If a law enforcement agency adopts or revises a policy regarding senior and disability victimization on or after April 13, 2021, the chief executive shall make it available to the state protection and advocacy agency upon request.

SEC. 9. Section 13515 of the Penal Code is amended to read:

13515. (a) Every city police officer or deputy sheriff at a supervisory level and below who is assigned field or investigative duties shall complete an elder and dependent adult abuse training course certified by the Commission on Peace Officer Standards and Training within 18 months of assignment to field duties. Completion of the course may be satisfied by telecourse, video training tape, or other instruction. The training, at a minimum, shall include all of the following subjects:

- (1) Relevant laws.
- (2) Recognition of elder and dependent adult abuse.

- (3) Reporting requirements and procedures.
- (4) Neglect of elders and dependent adults.
- (5) Fraud of elders and dependent adults.
- (6) Physical abuse of elders and dependent adults.
- (7) Psychological abuse of elders and dependent adults.
- (8) The role of the local adult protective services and public guardian offices.
- (9) The legal rights of, and remedies available to, victims of elder or dependent adult abuse pursuant to Section 15657.03 of the Welfare and Institutions Code, including emergency protective orders and the option to request a simultaneous move-out order, and temporary restraining orders.

(b) When producing new or updated training materials pursuant to this section, the commission shall consult with the Division of Medi-Cal Fraud and Elder Abuse, local adult protective services offices, the Office of the State Long-Term Care Ombudsman, and other subject matter experts. Any new or updated training materials shall address all of the following:

(1) The jurisdiction and responsibility of law enforcement agencies pursuant to Section 368.5.

(2) The fact that the protected classes of “dependent person” as defined in Section 288 and “dependent adult” as defined in Section 368 include many persons with disabilities, regardless of the fact that most of those persons live independently.

(3) Other relevant information and laws.

(c) The commission also may inform the law enforcement agencies of other relevant training materials.

SEC. 10. Section 14089.4 of the Welfare and Institutions Code is amended to read:

14089.4. The department may consult with the Department of Insurance or the Department of Managed Health Care, and shall consult with the Division of Medi-Cal Fraud and Elder Abuse within the Office of the Attorney General, the appropriate licensing boards, and the laboratory field services unit of the department, for the purposes of determining the qualifications, performance capability, and financial stability of prospective contractors.

SEC. 11. Section 14107.12 of the Welfare and Institutions Code is amended to read:

14107.12. (a) The Department of Justice may pay, pursuant to subdivision (d), from funds recovered by the Department of

Justice, and only to the extent that the money may be used for this purpose, a reward to any person who furnishes information leading to the recovery of not less than one hundred dollars (\$100) of public funds paid for services or goods rendered under the Medi-Cal program due to an act or omission by an individual or entity from which recovery is sought and that is the basis of a conviction of a Medi-Cal provider of services or goods in violation of any statutory criminal prohibition within the jurisdiction of the Division of Medi-Cal Fraud and Elder Abuse pursuant to Section 12528 of the Government Code.

(b) A reward shall not be paid for information under this section unless the information relates to the specific activities of a specific individual or entity, and specifies the time period during which the prohibited activities occurred.

(c) A reward shall not be paid under this section to a federal, state, or local public employee or any individual contracting with a state or local agency for information discovered by the employee during the course of their duties as a federal, state, or local agency employee or pursuant to a contract with that agency.

(d) The amount of a reward under this section shall be determined by the Department of Justice, and shall not exceed 10 percent of the restitution recovered or one thousand dollars (\$1,000), whichever is less. A reward shall not be paid until all recoverable funds have been collected from the individual or entity convicted of a violation of statutory prohibitions listed in subdivision (a).

(e) A determination by the Department of Justice of the eligibility of an individual to receive a reward, the amount and appropriateness of a reward under this section, and the timing of the payment of the reward shall be deemed to be final and shall not be subject to administrative appeal or judicial review.

(f) Subject to subdivision (g), payments made under authority of this section shall be disregarded for purposes of determining eligibility for any Medi-Cal program, the CalWORKs program, the CalFresh program, the County Medical Services Program, and any other means-tested public benefit program for which California has authority to establish the rules for determining eligibility.

(g) The income disregard described in subdivision (f) shall not be effective, with respect to an identified program, until the first day of the third month from the month in which any necessary

federal approval is obtained. The income disregard provided for in subdivision (f) shall only be implemented to the extent that federal financial participation is obtained.

SEC. 12. Section 14592 of the Welfare and Institutions Code is amended to read:

14592. (a) For purposes of this chapter, “PACE organization” means an entity as defined in Section 460.6 of Title 42 of the Code of Federal Regulations.

(b) The director shall establish the California Program of All-Inclusive Care for the Elderly (PACE program) to provide community-based, risk-based, and capitated long-term care services as optional services under the state’s Medi-Cal State Plan and under contracts entered into between the federal Centers for Medicare and Medicaid Services, the department, and PACE organizations, meeting the requirements of the Balanced Budget Act of 1997 (Public Law 105-33) and any other applicable law or regulation.

(c) A primary care clinic, as defined in paragraph (1) of subdivision (b) of Section 1200 of the Health and Safety Code, an adult day health care center, as defined in subdivision (b) of Section 1570.7 of the Health and Safety Code, or a home health agency, as defined in subdivision (a) of Section 1727 of the Health and Safety Code, that exclusively serves PACE participants, as defined in Section 460.6 of Title 42 of the Code of Federal Regulations, is exempt from licensure by the State Department of Public Health. A primary care clinic, an adult day health care center, or a home health agency that exclusively serves PACE participants shall be overseen and regulated by the department.

(1) A primary care clinic, adult day health care center, or home health agency approved by the department pursuant to this section to operate exclusively as part of a PACE organization may provide services to individuals who are being assessed for eligibility to enroll in the PACE program for not more than 60 calendar days after an individual submits an application for enrollment.

(2) If the department determines that a primary care clinic, adult day health care center, or home health agency approved to operate exclusively as part of a PACE organization has provided services to individuals other than those enrolled in the PACE program, or who are being assessed for eligibility pursuant to paragraph (1), the clinic, adult day health care center, or home health agency shall

apply for licensure with the State Department of Public Health. A primary care clinic, adult day health care center, or home health agency required to obtain licensure from the State Department of Public Health pursuant to this paragraph shall apply for the license not later than 60 calendar days following the determination by the department described in this paragraph. The clinic, adult day health care center, or home health agency shall not accept any new participants in the PACE program until licensure is obtained.

(3) This subdivision shall become operative only if the director determines, and communicates that determination in writing to the State Department of Public Health, that operating standards compliance programs consistent with subdivisions (d) and (e) have been established for implementation of this section. A primary care clinic, adult day health care center, or home health agency, as defined in this subdivision, shall remain under the oversight and regulatory authority of the State Department of Public Health until the director communicates their written determination to the State Department of Public Health.

(d) In order to provide services to PACE participants, PACE organizations exempt from licensure pursuant to this section shall be in compliance with all of the operating standards:

(1) A primary care clinic that exclusively serves PACE participants, or that also serves individuals who are being assessed for eligibility to enroll in a PACE program for not more than 60 calendar days after an individual submits an application for enrollment, shall be in compliance with the clinic operating standards set forth in Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code, except as modified by the department, to meet the needs of PACE participants or those individuals being assessed.

(2) An adult day health care center that exclusively serves PACE participants, or that also serves individuals who are being assessed for eligibility to enroll in a PACE program for not more than 60 calendar days after an individual submits an application for enrollment, shall be in compliance with the center operating standards set forth in Chapter 3.3 (commencing with Section 1570) of Division 2 of the Health and Safety Code, except as modified by the department, to meet the needs of PACE participants or those individuals being assessed.

(3) A home health agency that exclusively serves PACE participants, or that also serves individuals who are being assessed for eligibility to enroll in a PACE program for not more than 60 calendar days after an individual submits an application for enrollment, shall be in compliance with the agency operating standards set forth in Chapter 8 (commencing with Section 1725) of Division 2 of the Health and Safety Code, except as modified by the department, to meet the needs of PACE participants or those individuals being assessed.

(e) A PACE organization exempt from licensure pursuant to this section shall cooperate with the department's evaluation, oversight, and ongoing monitoring and shall comply with the operating standards, as described in subdivision (d). The PACE organization's cooperation shall include, but shall not be limited to, all of the following:

(1) Permitting the department or its agent immediate access to inspect any physical locations involved with the PACE organization's services.

(2) Immediately providing the department or its agent with copies of any requested records regarding the PACE organization and services offered to PACE participants.

(3) Immediately providing the department or its agent with requested information regarding the PACE organization's operations.

(f) (1) Before approving an adult day health care center that exclusively serves PACE participants, or that also serves individuals who are being assessed for eligibility to enroll in a PACE program for not more than 60 calendar days after an individual submits an application for enrollment, the department shall obtain a criminal record clearance for the administrator, program director, and fiscal officer of the proposed adult day health care center. The department shall obtain the criminal record clearances each time these positions are to be filled. The adult day health care center facility shall not allow a newly hired administrator, program director, or fiscal officer to have direct contact with clients or residents of the facility before completion of the criminal record clearance set forth in this subdivision.

(2) The criminal record clearance shall require the administrator, program director, and fiscal officer to submit electronic fingerprint images and related information required by the Department of

Justice to the Department of Justice, for the purpose of obtaining information as to the existence and content of a record of state or federal convictions, state or federal arrests, and state or federal arrests for which the Department of Justice establishes that the person is free on bail or on their recognizance pending trial or appeal.

(3) When received, the Department of Justice shall transmit fingerprint images and related information received pursuant to this section to the Federal Bureau of Investigation for the purpose of obtaining a federal criminal history records check. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the department.

(4) The Department of Justice shall provide a state-level or federal-level criminal offender record information search response to the department pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(5) The department shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons described in paragraph (1).

(6) The persons described in paragraph (1) shall be responsible for any costs associated with transmitting the electronic fingerprint images. The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this subdivision.

(7) A criminal record clearance shall be complete when the department has obtained the person's criminal offender record information search response from the Department of Justice and has determined that the person is not disqualified from engaging in the activity for which clearance is required.

(8) Notwithstanding any other law, the department may provide an individual with a copy of their state-level or federal-level criminal offender record information search response as provided to the department by the Department of Justice if the department has denied a criminal background clearance based on that response and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state-level or federal-level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be

provided to the address specified by the individual in the written request. The department shall retain a copy of the individual's written request and the response and date provided.

(g) (1) To qualify for approval as a home health agency that exclusively serves PACE participants, or that also serves individuals who are being assessed for eligibility to enroll in a PACE program for not more than 60 calendar days after an individual submits an application for enrollment, the following persons shall submit electronic fingerprint images and related information required by the Department of Justice to the Department of Justice for the furnishing of the person's criminal record to the department, at the person's expense as provided in paragraph (6), for the purpose of obtaining information as to the existence and content of a record of state or federal convictions, state or federal arrests, and state or federal arrests for which the Department of Justice establishes that the person is free on bail or on their recognizance pending trial or appeal:

(A) The owner or owners of a private agency if the owners are individuals.

(B) If the owner of a private agency is a corporation, partnership, or association, an individual with a 10 percent or greater interest in that corporation, partnership, or association.

(C) The administrator.

(2) A facility shall not allow a newly hired administrator, program director, or fiscal officer to have direct contact with clients or residents of the facility before completion of the criminal record clearance process set forth in this subdivision.

(3) When received, the Department of Justice shall transmit fingerprint images and related information received pursuant to this section to the Federal Bureau of Investigation for the purpose of obtaining a federal criminal history records check. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the department.

(4) The Department of Justice shall provide a state-level or federal-level criminal offender record information search response to the department pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(5) The department shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons described in paragraph (1).

(6) The persons described in paragraphs (1) and (2) shall be responsible for any costs associated with transmitting the electronic fingerprint images. The fee to cover the processing costs of the Department of Justice, not including the costs associated with capturing or transmitting the fingerprint images and related information, shall not exceed thirty-two dollars (\$32) per submission.

(7) A criminal record clearance shall be complete when the department has obtained the person's criminal offender record information search response from the Department of Justice and has determined that the person is not disqualified from engaging in the activity for which clearance is required.

(h) The department may refuse to enter into, or may terminate, a contract with a PACE organization exempt from licensure pursuant to this section, based on the PACE organization's failure to comply with the operating standards as described in subdivision (d), or based on the PACE organization's failure to cooperate as described in subdivision (e).

(i) If a PACE organization exempt from licensure pursuant to this section fails to comply with subdivision (c), (d), (e), (f), or (g), the department may require the PACE organization to submit a corrective action plan to bring the PACE organization into compliance with the requirements of those subdivisions. If the department approves the corrective action plan, the PACE organization shall complete the corrective action plan to the satisfaction of the department. If the PACE organization fails to satisfactorily complete the corrective action plan within the time specified by the department, the department may take other action as specified in the PACE organization's contract with the department.

(j) For purposes of implementing this section, the department may enter into exclusive or nonexclusive contracts, or may amend existing contracts, on a bid or negotiated basis. Contracts entered into or amended pursuant to this subdivision shall be exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 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.

(k) 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 this section, in whole or in part, by means of letters, bulletins, or other similar instructions, without taking regulatory action.

(l) This section shall be implemented only to the extent any necessary federal approvals are obtained and federal financial participation is available.

(m) The department shall implement the amendments made to this section by the act that added this subdivision no later than January 1, 2021, but only to the extent any necessary federal approvals are obtained and federal financial participation is available.

(n) (1) The department shall establish an administrative fee to be paid by each PACE organization exempt from licensure upon enrollment as a PACE provider, and annually thereafter, in an amount necessary to pay for reasonable costs of implementing and administering subdivisions (c) to (l), inclusive.

(2) (A) The fee described in this subdivision shall not be greater than the corresponding fee or fees otherwise imposed on a primary care clinic, home health agency, or adult day health care center pursuant to laws and regulations relating to licensing and regulation by the State Department of Public Health.

(B) It is the intent of the Legislature that the fee described in this subdivision is not an additional cost to a PACE organization because PACE organizations exempt from licensure are not subject to fees otherwise imposed for purposes of licensing and regulation by the State Department of Public Health.

(C) All fees paid to, and received by, the department pursuant to this subdivision shall be deposited in the State Treasury and shall be credited to a special fund that is hereby created as the PACE Oversight Fund of the State Department of Health Care Services. Moneys deposited in this fund shall be expended by the department for the purposes of implementing and administering subdivisions (c) to (l), inclusive, upon appropriation by the Legislature. No surplus in the PACE Oversight Fund of the State Department of Health Care Services shall be deposited in, or transferred to, the General Fund or any other fund.

(o) The amendments made to this section by the act that added this subdivision shall be supported entirely by federal funds and special funds, unless otherwise specified in statute or unless specifically appropriated from the General Fund in the annual Budget Act or other enacted legislation.

SEC. 13. Section 15610.15 of the Welfare and Institutions Code is amended to read:

15610.15. “Division” means the Division of Medi-Cal Fraud and Elder Abuse within the office of the Attorney General.

SEC. 14. Section 15630 of the Welfare and Institutions Code is amended to read:

15630. (a) A person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not they receive compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter.

(b) (1) A mandated reporter who, in their professional capacity, or within the scope of their employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that they have experienced behavior, including an act or omission, constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known or suspected instance of abuse by telephone or through a confidential internet reporting tool, as authorized by Section 15658, immediately or as soon as practicably possible. If reported by telephone, a written report shall be sent, or an internet report shall be made through the confidential internet reporting tool established in Section 15658, within two working days.

(A) If the suspected or alleged abuse is physical abuse, as defined in Section 15610.63, and the abuse occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the following shall occur:

(i) If the suspected abuse results in serious bodily injury, a telephone report shall be made to the local law enforcement agency immediately, but also no later than within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse, and a written report shall be made to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.

(ii) If the suspected abuse does not result in serious bodily injury, a telephone report shall be made to the local law enforcement agency within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse, and a written report shall be made to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.

(iii) When the suspected abuse is allegedly caused by a resident with a physician's diagnosis of dementia, and there is no serious bodily injury, as reasonably determined by the mandated reporter, drawing upon their training or experience, the reporter shall report to the local ombudsman or law enforcement agency by telephone, immediately or as soon as practicably possible, and by written report, within 24 hours.

(iv) When applicable, reports made pursuant to clauses (i) and (ii) shall be deemed to satisfy the reporting requirements of the federal Elder Justice Act of 2009, as set out in Subtitle H of the federal Patient Protection and Affordable Care Act (Public Law 111-148), Section 1418.91 of the Health and Safety Code, and Section 72541 of Title 22 of the California Code of Regulations. When a local law enforcement agency receives an initial report of suspected abuse in a long-term care facility pursuant to this subparagraph, the local law enforcement agency may coordinate efforts with the local ombudsman to provide the most immediate and appropriate response warranted to investigate the mandated report. The local ombudsman and local law enforcement agencies may collaborate to develop protocols to implement this subparagraph.

(B) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title

2 of the Government Code, or any other law, the department may implement subparagraph (A), in whole or in part, by means of all-county letters, provider bulletins, or other similar instructions without taking regulatory action.

(C) If the suspected or alleged abuse is abuse other than physical abuse, and the abuse occurred in a long-term care facility, except a state mental health hospital or a state developmental center, a telephone report and a written report shall be made to the local ombudsman or the local law enforcement agency.

(D) With regard to abuse reported pursuant to subparagraph (C), the local ombudsman and the local law enforcement agency shall, as soon as practicable, except in the case of an emergency or pursuant to a report required to be made pursuant to clause (v), in which case these actions shall be taken immediately, do all of the following:

(i) Report to the State Department of Public Health any case of known or suspected abuse occurring in a long-term health care facility, as defined in subdivision (a) of Section 1418 of the Health and Safety Code.

(ii) Report to the State Department of Social Services any case of known or suspected abuse occurring in a residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or in an adult day program, as defined in paragraph (2) of subdivision (a) of Section 1502 of the Health and Safety Code.

(iii) Report to the State Department of Public Health and the California Department of Aging any case of known or suspected abuse occurring in an adult day health care center, as defined in subdivision (b) of Section 1570.7 of the Health and Safety Code.

(iv) Report to the Division of Medi-Cal Fraud and Elder Abuse any case of known or suspected criminal activity.

(v) Report all cases of known or suspected physical abuse and financial abuse to the local district attorney's office in the county where the abuse occurred.

(E) (i) If the suspected or alleged abuse or neglect occurred in a state mental hospital or a state developmental center, and the suspected or alleged abuse or neglect resulted in any of the following incidents, a report shall be made immediately, but no later than within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting abuse, to designated

investigators of the State Department of State Hospitals or the State Department of Developmental Services, and to the local law enforcement agency:

- (I) A death.
 - (II) A sexual assault, as defined in Section 15610.63.
 - (III) An assault with a deadly weapon, as described in Section 245 of the Penal Code, by a nonresident of the state mental hospital or state developmental center.
 - (IV) An assault with force likely to produce great bodily injury, as described in Section 245 of the Penal Code.
 - (V) An injury to the genitals when the cause of the injury is undetermined.
 - (VI) A broken bone when the cause of the break is undetermined.
- (ii) All other reports of suspected or alleged abuse or neglect that occurred in a state mental hospital or a state developmental center shall be made immediately, but no later than within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting abuse, to designated investigators of the State Department of State Hospitals or the State Department of Developmental Services, or to the local law enforcement agency.
 - (iii) When a local law enforcement agency receives an initial report of suspected or alleged abuse or neglect in a state mental hospital or a state developmental center pursuant to clause (i), the local law enforcement agency shall coordinate efforts with the designated investigators of the State Department of State Hospitals or the State Department of Developmental Services to provide the most immediate and appropriate response warranted to investigate the mandated report. The designated investigators of the State Department of State Hospitals or the State Department of Developmental Services and local law enforcement agencies may collaborate to develop protocols to implement this clause.
 - (iv) Except in an emergency, the local law enforcement agency shall, as soon as practicable, report any case of known or suspected criminal activity to the Division of Medi-Cal Fraud and Elder Abuse.
 - (v) Notwithstanding any other law, a mandated reporter who is required to report pursuant to Section 4427.5 shall not be required to report under clause (i).

(F) If the abuse has occurred in any place other than a long-term care facility, a state mental hospital, or a state developmental center, the report shall be made to the adult protective services agency or the local law enforcement agency.

(2) (A) A mandated reporter who is a clergy member who acquires knowledge or reasonable suspicion of elder or dependent adult abuse during a penitential communication is not subject to paragraph (1). For purposes of this subdivision, “penitential communication” means a communication that is intended to be in confidence, including, but not limited to, a sacramental confession made to a clergy member who, in the course of the discipline or practice of their church, denomination, or organization is authorized or accustomed to hear those communications and under the discipline tenets, customs, or practices of their church, denomination, or organization, has a duty to keep those communications secret.

(B) This subdivision shall not modify or limit a clergy member’s duty to report known or suspected elder and dependent adult abuse if they are acting in the capacity of a care custodian, health practitioner, or employee of an adult protective services agency.

(C) Notwithstanding this section, a clergy member who is not regularly employed on either a full-time or part-time basis in a long-term care facility or does not have care or custody of an elder or dependent adult shall not be responsible for reporting abuse or neglect that is not reasonably observable or discernible to a reasonably prudent person having no specialized training or experience in elder or dependent care.

(3) (A) A mandated reporter who is a physician and surgeon, a registered nurse, or a psychotherapist, as defined in Section 1010 of the Evidence Code, shall not be required to report, pursuant to paragraph (1), an incident if all of the following conditions exist:

(i) The mandated reporter has been told by an elder or dependent adult that they have experienced behavior constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect.

(ii) The mandated reporter is unaware of any independent evidence that corroborates the statement that the abuse has occurred.

(iii) The elder or dependent adult has been diagnosed with a mental illness or dementia, or is the subject of a court-ordered conservatorship because of a mental illness or dementia.

(iv) In the exercise of clinical judgment, the physician and surgeon, the registered nurse, or the psychotherapist, as defined in Section 1010 of the Evidence Code, reasonably believes that the abuse did not occur.

(B) This paragraph shall not impose upon mandated reporters a duty to investigate a known or suspected incident of abuse and shall not lessen or restrict any existing duty of mandated reporters.

(4) (A) In a long-term care facility, a mandated reporter shall not be required to report as a suspected incident of abuse, as defined in Section 15610.07, an incident if all of the following conditions exist:

(i) The mandated reporter is aware that there is a proper plan of care.

(ii) The mandated reporter is aware that the plan of care was properly provided or executed.

(iii) A physical, mental, or medical injury occurred as a result of care provided pursuant to clause (i) or (ii).

(iv) The mandated reporter reasonably believes that the injury was not the result of abuse.

(B) This paragraph shall neither require a mandated reporter to seek, nor preclude a mandated reporter from seeking, information regarding a known or suspected incident of abuse before reporting. This paragraph shall apply only to those categories of mandated reporters that the State Department of Public Health determines, upon approval by the Division of Medi-Cal Fraud and Elder Abuse and the state long-term care ombudsman, have access to plans of care and have the training and experience necessary to determine whether the conditions specified in this section have been met.

(c) (1) Any mandated reporter who has knowledge, or reasonably suspects, that types of elder or dependent adult abuse for which reports are not mandated have been inflicted upon an elder or dependent adult, or that their emotional well-being is endangered in any other way, may report the known or suspected instance of abuse.

(2) If the suspected or alleged abuse occurred in a long-term care facility other than a state mental health hospital or a state developmental center, the report may be made to the long-term

care ombudsman program. Except in an emergency, the local ombudsman shall report any case of known or suspected abuse to the State Department of Public Health and any case of known or suspected criminal activity to the Division of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.

(3) If the suspected or alleged abuse occurred in a state mental health hospital or a state developmental center, the report may be made to the designated investigator of the State Department of State Hospitals or the State Department of Developmental Services or to a local law enforcement agency. Except in an emergency, the local law enforcement agency shall report any case of known or suspected criminal activity to the Division of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.

(4) If the suspected or alleged abuse occurred in a place other than a place described in paragraph (2) or (3), the report may be made to the county adult protective services agency.

(5) If the conduct involves criminal activity not covered in subdivision (b), it may be immediately reported to the appropriate law enforcement agency.

(d) If two or more mandated reporters are present and jointly have knowledge or reasonably suspect that types of abuse of an elder or a dependent adult for which a report is or is not mandated have occurred, and there is agreement among them, the telephone report or internet report, as authorized by Section 15658, may be made by a member of the team selected by mutual agreement, and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(e) A telephone report or internet report, as authorized by Section 15658, of a known or suspected instance of elder or dependent adult abuse shall include, if known, the name of the person making the report, the name and age of the elder or dependent adult, the present location of the elder or dependent adult, the names and addresses of family members or any other adult responsible for the elder's or dependent adult's care, the nature and extent of the elder's or dependent adult's condition, the date of the incident, and any other information, including information that led that person to suspect elder or dependent adult abuse, as requested by the agency receiving the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator shall impede or inhibit the reporting duties, and no person making the report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting, ensure confidentiality, and apprise supervisors and administrators of reports may be established, provided they are not inconsistent with this chapter.

(g) (1) Whenever this section requires a county adult protective services agency to report to a law enforcement agency, the law enforcement agency shall, immediately upon request, provide a copy of its investigative report concerning the reported matter to that county adult protective services agency.

(2) Whenever this section requires a law enforcement agency to report to a county adult protective services agency, the county adult protective services agency shall, immediately upon request, provide to that law enforcement agency a copy of its investigative report concerning the reported matter.

(3) The requirement to disclose investigative reports pursuant to this subdivision shall not include the disclosure of social services records or case files that are confidential, nor shall this subdivision allow disclosure of any reports or records if the disclosure would be prohibited by any other state or federal law.

(h) Failure to report, or impeding or inhibiting a report of, physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, is a misdemeanor, punishable by not more than six months in the county jail, by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment. A mandated reporter who willfully fails to report, or impedes or inhibits a report of, physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, if that abuse results in death or great bodily injury, shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars (\$5,000), or by both that fine and imprisonment. If a mandated reporter intentionally conceals their failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until a law

enforcement agency specified in paragraph (1) of subdivision (b) of Section 15630 discovers the offense.

(i) For purposes of this section, “dependent adult” has the same meaning as that term is defined in Section 15610.23.

SEC. 15. Section 15633.5 of the Welfare and Institutions Code is amended to read:

15633.5. (a) Information relevant to the incident of elder or dependent adult abuse shall be given to an investigator from an adult protective services agency, a local law enforcement agency, the office of the district attorney, the office of the public guardian, the probate court, the division, the Department of Financial Protection and Innovation, or an investigator of the Department of Consumer Affairs, Division of Investigation who is investigating a known or suspected case of elder or dependent adult abuse.

(b) The identity of any person who reports under this chapter shall be confidential and disclosed only among the following agencies or persons representing an agency:

- (1) An adult protective services agency.
- (2) A long-term care ombudsman program.
- (3) A licensing agency.
- (4) A local law enforcement agency.
- (5) The office of the district attorney.
- (6) The office of the public guardian.
- (7) The probate court.
- (8) The division.
- (9) The Department of Business Oversight.
- (10) The Department of Consumer Affairs, Division of Investigation.

(11) Counsel representing an adult protective services agency.

(c) The identity of a person who reports pursuant to this chapter may also be disclosed under the following circumstances:

- (1) To the district attorney in a criminal prosecution.
- (2) When a person reporting waives confidentiality.
- (3) By court order.

(d) Notwithstanding subdivisions (a) to (c), inclusive, a person reporting pursuant to Section 15631 shall not be required to include their name in the report.

SEC. 15.5. Section 15633.5 of the Welfare and Institutions Code is amended to read:

15633.5. (a) (1) Information relevant to the incident of elder or dependent adult abuse shall be given to an investigator from an adult protective services agency, a local law enforcement agency, the office of the district attorney, the office of the public guardian, the probate court, the division, the Department of Financial Protection and Innovation, or an investigator of the Department of Consumer Affairs, Division of Investigation, who is investigating a known or suspected case of elder or dependent adult abuse.

(2) (A) If the incident of elder or dependent adult financial abuse may be within the jurisdiction of a federal law enforcement agency, information relevant to the incident may be given to the federal law enforcement agency for the sole purpose of investigating a financial crime committed against the elder or dependent adult.

(B) Information relevant to the incident of elder or dependent adult abuse may be provided to a local code enforcement agency for the sole purpose of investigating an unlicensed care facility where the health and safety of an elder or dependent adult resident is at risk.

(b) The identity of a person who reports under this chapter shall be confidential and disclosed only among the following agencies or persons representing an agency:

- (1) An adult protective services agency.
- (2) A long-term care ombudsperson program.
- (3) A licensing agency.
- (4) A local law enforcement agency.
- (5) The office of the district attorney.
- (6) The office of the public guardian.
- (7) The probate court.
- (8) The division.
- (9) The Department of Business Oversight.
- (10) The Department of Consumer Affairs, Division of Investigation.
- (11) Counsel representing an adult protective services agency.

(c) The identity of a person who reports pursuant to this chapter may also be disclosed under the following circumstances:

- (1) To the district attorney in a criminal prosecution.
- (2) When a person reporting waives confidentiality.
- (3) By court order.

(d) Notwithstanding subdivisions (a) to (c), inclusive, a person reporting pursuant to Section 15631 shall not be required to include their name in the report.

SEC. 16. Section 15640 of the Welfare and Institutions Code is amended to read:

15640. (a) (1) An adult protective services agency shall immediately, or as soon as practically possible, report by telephone to the law enforcement agency having jurisdiction over the case any known or suspected instance of criminal activity, and to any public agency given responsibility for investigation in that jurisdiction of cases of elder and dependent adult abuse, every known or suspected instance of abuse of an elder or dependent adult pursuant to Section 15630, 15630.1, or 15630.2. A county adult protective services agency shall also send a written report thereof within two working days of receiving the information concerning the incident to each agency to which it is required to make a telephone report under this subdivision. Before making any cross-report of allegations of financial abuse to law enforcement agencies, an adult protective services agency shall first determine whether there is reasonable suspicion of any criminal activity.

(2) If an adult protective services agency receives a report of abuse alleged to have occurred in a long-term care facility, that adult protective services agency shall immediately inform the person making the report that they are required to make the report to the long-term care ombudsman program or to a local law enforcement agency. The adult protective services agency shall not accept the report by telephone but shall forward any written report received to the long-term care ombudsman.

(b) If an adult protective services agency or local law enforcement agency or ombudsman program receiving a report of known or suspected elder or dependent adult abuse determines, pursuant to its investigation, that the abuse is being committed by a health practitioner licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, or any related initiative act, or by a person purporting to be a licensee, the adult protective services agency or local law enforcement agency or ombudsman program shall immediately, or as soon as practically possible, report this information to the appropriate licensing agency. The licensing agency shall investigate the report in light

of the potential for physical harm. The transmittal of information to the appropriate licensing agency shall not relieve the adult protective services agency or local law enforcement agency or ombudsman program of the responsibility to continue its own investigation as required under applicable provisions of law. The information reported pursuant to this subdivision shall remain confidential and shall not be disclosed.

(c) A local law enforcement agency shall immediately, or as soon as practically possible, report by telephone to the long-term care ombudsman program when the abuse is alleged to have occurred in a long-term care facility or to the county adult protective services agency when it is alleged to have occurred anywhere else, and to the agency given responsibility for the investigation of cases of elder and dependent adult abuse every known or suspected instance of abuse of an elder or dependent adult. A local law enforcement agency shall also send a written report thereof within two working days of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

(d) A long-term care ombudsman coordinator may report the instance of abuse to the county adult protective services agency or to the local law enforcement agency for assistance in the investigation of the abuse if the victim gives their consent. A long-term care ombudsman program and the Licensing and Certification Division of the State Department of Public Health shall immediately report by telephone and in writing within two working days to the Division of Medi-Cal Fraud and Elder Abuse any instance of neglect occurring in a health care facility that has seriously harmed any patient or reasonably appears to present a serious threat to the health or physical well-being of a patient in that facility. If a victim or potential victim of the neglect withholds consent to being identified in that report, the report shall contain circumstantial information about the neglect, but shall not identify that victim or potential victim. The Division of Medi-Cal Fraud and Elder Abuse and the reporting agency shall maintain the confidentiality of the report until the report becomes a matter of public record.

(e) When a county adult protective services agency, a long-term care ombudsman program, or a local law enforcement agency receives a report of abuse, neglect, or abandonment of an elder or

dependent adult alleged to have occurred in a long-term care facility, that county adult protective services agency, long-term care ombudsman coordinator, or local law enforcement agency shall report the incident to the licensing agency by telephone as soon as possible.

(f) County adult protective services agencies, long-term care ombudsman programs, and local law enforcement agencies shall report the results of their investigations of referrals or reports of abuse to the respective referring or reporting agencies.

SEC. 17. Section 15650 of the Welfare and Institutions Code is amended to read:

15650. (a) Investigation of reports of known or suspected instances of abuse in long-term care facilities shall be the responsibility of the division, the local law enforcement agency, and the long-term care ombudsman program.

(b) Investigations of known or suspected instances of abuse outside of long-term care facilities shall be the responsibility of the county adult protective services agency, unless another public agency is given responsibility for investigation in that jurisdiction, and the local law enforcement agency.

(c) The investigative responsibilities set forth in this section are in addition to, and not in derogation of or substitution for, the investigative and regulatory responsibilities of licensing agencies, such as the State Department of Social Services Community Care Licensing Division and the State Department of Public Health Licensing and Certification Division and their authorized representatives.

(d) Other public agencies involved in the investigation of abuse or advocacy of respective client populations, or both, include, but shall not be limited to, the State Department of State Hospitals and the State Department of Developmental Services. Other public agencies shall conduct or assist in, or both, the investigation of reports of abuse of elder and dependent adults within their jurisdiction in conjunction with county adult protective services, local ombudsman programs, and local law enforcement agencies.

(e) Each county adult protective services agency shall maintain an inventory of all public and private service agencies available to assist victims of abuse, as defined by Section 15610.07. This inventory shall be used to refer victims in the event that the county adult protective services agency cannot resolve the immediate

needs of the victim, and to serve the victim on a long-term, followup basis. The intent of this section is to acknowledge that limited funds are available to resolve all suspected cases of abuse reported to a county adult protective services agency.

(f) Each local ombudsman program shall maintain an inventory of all public and private agencies available to assist long-term care residents who are victims of abuse, as defined by Section 15610.07. This inventory shall be used to refer cases of abuse in the event that another agency has jurisdiction over the resident, the abuse is verified and further investigation is needed by a law enforcement or licensing agency, or the program does not have sufficient resources to provide immediate assistance. The intent of this section is to acknowledge that ombudsman responsibility in abuse cases is to receive reports, determine the validity of reports, refer verified abuse cases to appropriate agencies for further action as necessary, and follow up to complete the required report information. Other ombudsman services shall be provided to the resident, as appropriate.

(g) The responsibilities and jurisdiction granted by this section to the entities described in subdivisions (a) to (d), inclusive, are subject to the responsibility and jurisdiction granted pursuant to Section 368.5 of the Penal Code. The legislature finds and declares that this subdivision is declaratory of existing law.

SEC. 18. Section 15653.5 of the Welfare and Institutions Code is amended to read:

15653.5. Training for determining when to refer for possible criminal prosecution a report of a known or suspected instance of abuse that occurred in a long-term care facility shall be included in the training provided by the Division of Medi-Cal Fraud and Elder Abuse pursuant to subdivision (h) of Section 12528 of the Government Code.

SEC. 19. Section 15654 of the Welfare and Institutions Code is amended to read:

15654. (a) As described in subdivision (h) of Section 12528 of the Government Code, the division shall offer training programs to local law enforcement and prosecutorial personnel in investigating and prosecuting crimes against elders and dependent adults, and to the State Department of Health Care Services, the State Department of Social Services, the county adult protective services agencies and to the long-term care ombudsman program

in evaluating and documenting criminal abuse against elders and dependent adults.

(b) When producing new or updated training materials pursuant to this section, the division shall consult with the Commission on Peace Officer Standards and Training and other subject matter experts. Any new or updated training materials shall address all of the following:

(1) The jurisdiction and responsibility of law enforcement agencies pursuant to Section 368.5 of the Penal Code.

(2) The fact that the protected classes of “dependent person” as defined in Section 288 of the Penal Code and “dependent adult” as defined in Section 368 of the Penal Code include many persons with disabilities, regardless of the fact that most of those persons live independently.

(3) Other relevant information and laws.

(c) When the division offers or provides new or updated training materials pursuant to this section, the division also may inform the agencies of other relevant training materials.

SEC. 20. Section 15658 of the Welfare and Institutions Code is amended to read:

15658. (a) A written abuse report, as required by this chapter, shall be submitted in one of the following ways:

(1) On a form adopted by the State Department of Social Services after consultation with representatives of the various law enforcement agencies, the California Department of Aging, the State Department of Developmental Services, the State Department of State Hospitals, the division, professional medical and nursing agencies, hospital associations, and county welfare departments. These reporting forms shall be distributed by the county adult protective services agencies and the long-term care ombudsman programs. This reporting form may also be used for documenting the telephone report of a known or suspected instance of abuse of an elder or dependent adult by the county adult protective services agency, local ombudsman program, and local law enforcement agencies.

(2) Through a confidential internet reporting tool, if the county or long-term care ombudsman program chooses to implement such a system. This internet reporting tool shall be developed and implemented in a manner that ensures the confidentiality and security of all information contained in the reports, pursuant to the

confidentiality standards set forth in Sections 10850, 15633, and 15633.5.

(A) A county or long-term care ombudsman program that chooses to implement this system shall report to the Assembly Committee on Aging and Long-Term Care, the Assembly Committee on Human Services, the Senate Committee on Human Services, the Assembly Committee on Public Safety, and the Senate Committee on Public Safety one year after full implementation. The report shall include changes in the number of mandated reporters reporting through the confidential internet reporting tool, changes in the number of abandoned calls, and any other quantitative or qualitative data that indicate the success, or lack thereof, in employing a confidential internet reporting tool to better protect the safety and financial security of elder and dependent adults.

(B) Information sent and received through the confidential internet reporting tool shall be used only for its intended purpose and shall be subject to the same confidentiality and privacy requirements that govern nonelectronic transmission of the same information, and that are set forth in Sections 10850, 15633, and 15633.5.

(b) The form required by this section and the confidential internet reporting tool, if implemented, shall contain the following items:

(1) The name, address, telephone number, and occupation of the person reporting.

(2) The name and address of the victim.

(3) The date, time, and place of the incident.

(4) Other details, including the reporter's observations and beliefs concerning the incident.

(5) Any statement relating to the incident made by the victim.

(6) The name of any individuals believed to have knowledge of the incident.

(7) The name of the individuals believed to be responsible for the incident and their connection to the victim.

(c) (1) Each county adult protective services agency shall report to the State Department of Social Services monthly on the reports received pursuant to this chapter. The reports shall be made on forms adopted by the department. The information reported shall include, but shall not be limited to, the number of incidents of

abuse, the number of persons abused, the type of abuse sustained, and the actions taken on the reports. For purposes of these reports, sexual abuse shall be reported separately from physical abuse.

(2) The county's report to the department shall not include reports it receives from the long-term care ombudsman program pursuant to subdivision (d).

(3) The department shall refer to the division monthly data summaries of the reports of elder and dependent adult abuse, neglect, abandonment, isolation, financial abuse, and other abuse it receives from county adult protective services agencies.

(d) Each long-term care ombudsman program shall report to the Office of the State Long-Term Care Ombudsman of the California Department of Aging monthly on the reports it receives pursuant to this chapter and shall send a copy to the county adult protective services agency. The Office of the State Long-Term Care Ombudsman shall submit a summarized quarterly report to the department based on the monthly reports submitted by local long-term care ombudsman programs. The reports shall be on forms adopted by the department and the Office of the State Long-Term Care Ombudsman. The information reported shall include, but shall not be limited to, the number of incidents of abuse, the numbers of persons abused, the type of abuse, and the actions taken on the reports. For purposes of these reports, sexual abuse shall be reported separately from physical abuse.

SEC. 21. The amendments made to Section 7930.135 of the Government Code, as amended by Section 2.5 of this bill, shall only become operative on January 1, 2023, if (1) both this bill and Assembly Bill 473 of the 2021–22 Regular Session are enacted and become effective on or before January 1, 2022, (2) Assembly Bill 473 repeals Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code and adds Division 10 (commencing with Section 7920.000) to Title 1 of the Government Code, (3) this bill amends Section 6276.14 of the Government Code, and (4) this bill is enacted after Assembly Bill 473, in which case Section 2 of this bill shall remain operative only until January 1, 2023, at which time Section 2.5 of this bill shall become operative.

SEC. 22. The amendments made to Section 7930.170 of the Government Code, as amended by Section 3.5 of this bill, shall only become operative on January 1, 2023, if (1) both this bill and

Assembly Bill 473 of the 2021–22 Regular Session are enacted and become effective on or before January 1, 2022, (2) Assembly Bill 473 repeals Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code and adds Division 10 (commencing with Section 7920.000) to Title 1 of the Government Code, (3) this bill amends Section 6276.30 of the Government Code, and (4) this bill is enacted after Assembly Bill 473, in which case Section 3 of this bill shall remain operative only until January 1, 2023, at which time Section 3.5 of this bill shall become operative.

SEC. 23. Section 15.5 of this bill incorporates amendments to Section 15633.5 of the Welfare and Institutions Code proposed by both this bill and Assembly Bill 636. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 15633.5 of the Welfare and Institutions Code, and (3) this bill is enacted after Assembly Bill 636, in which case Section 15 of this bill shall not become operative.

Approved _____, 2021

Governor