

AMENDED IN SENATE JUNE 24, 2013

AMENDED IN ASSEMBLY APRIL 22, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 658

Introduced by Assembly Member Ian Calderon

February 21, 2013

An act to amend Section 56.06 of the Civil Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

AB 658, as amended, Ian Calderon. Personal information: disclosure.

(1) The Confidentiality of Medical Information Act prohibits a provider of health care, a health care service plan, contractor, or corporation and its subsidiaries and affiliates from intentionally sharing, selling, using for marketing, or otherwise using any medical information, as defined, for any purpose not necessary to provide health care services to a patient, except as expressly authorized by the patient, enrollee, or subscriber, as specified, or as otherwise required or authorized by law. The act includes within the definition of "provider of health care," any business organized for the purpose of maintaining medical information to allow an individual to manage his or her information, or for the treatment or diagnosis of the individual.

Violations of those provisions are subject to a civil action for compensatory and punitive damages, and, if a violation results in economic loss or personal injury to a patient, it is punishable as a misdemeanor.

This bill would apply the prohibitions of the Confidentiality of Medical Information Act to any business that offers software or

hardware *to consumers*, including a mobile application or other related device that is designed to maintain medical information to allow an individual to manage his or her information, or for the diagnosis, treatment, or management of a medical condition of the individual. By expanding an existing crime, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 56.06 of the Civil Code is amended to
2 read:

3 56.06. (a) Any business organized for the purpose of
4 maintaining medical information, as defined in subdivision (g) of
5 Section 56.05, in order to make the information available to an
6 individual or to a provider of health care at the request of the
7 individual or a provider of health care, for purposes of allowing
8 the individual to manage his or her information, or for the diagnosis
9 and treatment of the individual, shall be deemed to be a provider
10 of health care subject to the requirements of this part. However,
11 nothing in this section shall be construed to make a business
12 specified in this subdivision a provider of health care for purposes
13 of any law other than this part, including laws that specifically
14 incorporate by reference the definitions of this part.

15 (b) Any business that offers software or hardware *to consumers*,
16 including a mobile application or other related device that is
17 designed to maintain medical information, as defined in subdivision
18 (g) of Section 56.05, in order to make the information available
19 to an individual or a provider of health care at the request of the
20 individual or a provider of health care, for purposes of allowing
21 the individual to manage his or her information, or for the
22 diagnosis, treatment, or management of a medical condition of the
23 individual, shall be deemed to be a provider of health care subject
24 to the requirements of this part. However, nothing in this section

1 shall be construed to make a business specified in this subdivision
2 a provider of health care for purposes of any law other than this
3 part, including laws that specifically incorporate by reference the
4 definitions of this part.

5 (c) Any business described in subdivision (a) or (b) shall
6 maintain the same standards of confidentiality required of a
7 provider of health care with respect to medical information
8 disclosed to the business.

9 (d) Any business described in subdivision (a) or (b) shall be
10 subject to the penalties for improper use and disclosure of medical
11 information prescribed in this part.

12 SEC. 2. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.