## CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

\section*{ASSEMBLY DAIIY JOURNAL

\title{

FIRST LEGISLATIVE DAY

# FIRST LEGISLATIVE DAY <br> FIRST CALENDAR DAY 

IN ASSEMBLY

> Assembly Chamber, Sacramento
> Monday, May 19, 1975

At 1 pm the Assembly met pursuant to the provisions of the Proclamation of Ilis Excellenry, Edmund G Brown.Ir. Governor of the Slate of Californa, dated May 16, 1975, convening the Legislature of the State of Californat on this day in extraordmary session

James D Driscoll, Chef Clerk for the 1975-76 Regular and First Extriordinary Sessions, presiding

Assstant Clerk Ray Monday reading.

## ANNOUNCEMENTS

James D Driscoll, Chuef Clerk of the Assembly, announced that pursuant to the requirements of the Government code. Section 9150, the following officers of the Assembly of the 1975-76 Regular and First Extraordinary Sessions of the Legislature were present and in therr positions.

James D Dribeoll, Chucf Clerk; Anabel Fleury, Minute Clerk, and Tony Beard, Sergeant at Arms

## ROLL CALL

The roll was called, and the followny answered to their names-68:

| Alatorre | Cullen |  | Kevmor | Papan |
| :---: | :---: | :---: | :---: | :---: |
| Allonovich | Dats |  | 1,minemater | Spimo |
| Arnett | Ledelth |  | Latnteiman | Prious |
| Batham | Dison |  | Lew | Ralyh |
| Bane | Dufty |  | Laclizer | Relinum |
| [rama | Egrland |  | Mactonald | Rowemthat |
| Herman | Fenton |  | Michlester | Suckier |
| Boatwright | Foran | - | Melamman | sult |
| Hrich | Gamamendt |  | MeVittie | Thomar, Vimeent |
| Burke | (ioghin |  | Memate | 'Thamas, Wallam |
| Calso | Griene |  | Miller | Thatmen |
| Calpenter | Gualco |  | Mohiles | Vinconterlos |
| (Thaton | Hat |  | Stontusa | Vicerimia |
| Chuppre | Husden |  | Mori | Water |
| Chimhole | Ingnlle* | - | Muruhy | Wranmm |
| Clime | Kıpuloff |  | Newtancle | Z'berg |
| Colher | Кеure |  | Nimmo | Mh. Speuker |

Quorum present.

## PRAYER

Upon invitation of the Chief Clerk, the followng prayer was offered by Father Leo McAllister, Chaplam of the Assembly for the 1975-76 Regular and First Extraordinary Sessions

Lord, In Your creation, You have given to humans alone a place of preeminence You have also entrusted to us the responsibility by way of privilege, to care for all of Your handiwork It is'irnome that we who are so blessed with the gift of intellect and will should need more husbanding than the rest of Your creation As we see the need to face each responsibility help us to be motivated by Your Spurit so that we may establish a social order founded on truth, built on justice, and anmated by love May Your Spurit, Father, which directs the unfolding of time and renews the face of the earth, be present in this development -AMEN

## PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of the Chief Clerk, Mr Vincent Thomas then led the Assembly in the pledge of allegrance to the Flag

## LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness.
Mr Tucker, on request of Speaker McCarthy.
The following Members were granted leaves of absence for the day, on personal business, and desmed to wave thear per diem.
Mr Knox, on request of Speaker MeCarthy
Mr. Torres, on request of Speaker MuCarthy

## PROCLAMATION OF THE GOVERNOR

The Chief Clerk directed that the followng Proclamation of the Governor convening the Legislature mextraordinary session be read:

Executive Department, State of California

## PROCLAMATION

The cost of medical malpractice insurance has risen to levels which many physicuans and surgeons find intoleable The mability of doctors to obtam such msurance at reasmable rates is endangering the health of the people of this State, and the catens the relonig of many hospitals The longer term consequences of such clowmgs could sentonsly limit the health care provided to hundreds of thouminds of our cutizens.

In my judgment, no lasting solution is possible wthout cacrifice and fundamental reform it is entual that the Legislatime madt laws whech will change the relatimslap between the people and the medical profession, the legal professon and the insurane monastay, and thereby reduce the costs which undenle these high muname premums

Therefore, m convenug this extroordmaty sesson, I ack the Legislature to cousider

1 Reconstitutug the Board of Medieal Exammers to include a majoray of puble members
2 Giving the bound full authonty to discophene and decertify practitiones for lack of competency.
3. Providing the board with authority to set recertification standards, including updated training and public service, in order to minimize malpractice and increase the quality of medical care.
4. Providing the board with authority to develop a system to minimuze the present maldistribution of medical care in certain areas of the state.
5. Eistablishing a Medical Peace Corps to serve Californians who lack adequate medical care.
6. Regulation of hospital rates, including authority over excessive hospital bed capacity and unnecessary duplication of expensive and under-utilized equipment.
7. Voluntary binding arbitration in order to quickly and fairly resolve malpractice claims while maintaining fair access to the courts.
8. Establishment of reasonable limits on the amount of contingency fees charged by attorneys.
9. Elimination of double payments ("collateral sources'); institution of periodic payments and reversionary trusts; limitation of compensation for pain and suffering while insuring fully adequate compensation for all medical costs and loss of earnings, and setting a reasonable statute of limitations for the filing of malpractice claims.
In addation, I intend to:
a) Convene a Special Panel to immediately conduct a complete investigation into all insurance company rates and reserve practices and;
b) Support legislation in the regular session to insure adequate public representation on all professional boards, including the Board of Governors of the California State Bar.
Therefore, by virtue of Article IV, Section 3 of the Constitution, I hereby assemble the Legislature of the State of California in extraordinary session at Sacramento at 1:00 p.m. Monday, May 19, 1975, to consider and act on this legislation.

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 16th day of May, 1975.

EDMUND G BROWN JR.
Governor of California
MARCH FONG EU
Secretary of State
By Michael S. Gagan
Deputy Secretary of State

## ANNOUNCEMENTS

The Chief Clerk announced that the next order of business was the nomination and election of officers for the 1975-76 Second Extraordinary Session of the Assembly, and declared that nominations for officers of the Assembly were now in order.

## RESOLUTIONS

The following resolution was offered:
By Assemblyman Berman:
House Resolution No. 1
Relative to the election of Assembly offleers
Resolved by the Assembly of the State of California, That the following named persons constitute the officers of the Assembly for the 197576 Second Extraordinary Session:
 Dixon, adopted by the following vote:

| AYES-46 |  |  |  |
| :---: | :---: | :---: | :---: |
| Antonorich | Dixon | Keysor | Papan |
| Arnett | Egeland | Lancaster | Priolo |
| Bannai | Fenton | Lockyer | Ralph |
| Boatwright | Garamendi | MacDonald | Rosenthal |
| Briges | Goggin | McAlister | Siegler |
| Calvo | Gualco | Melennan | Suitt |
| Chappie | Hart | MeVittie | Thomas, Vincent |
| Chimbole | Haydem | Miller | Thomas, Wilham |
| Cline | Ingalls | Mobley | Vasconcellos |
| Colluer | Kapiloff | Mors | Wornum |
| Davis | Keene | Nimme | Mr. Speaker |

Whereupon, the Chief Clerk announced the vote of the Assembly and declared the following as the choice of the Assembly for officers for the 1975-76 Second Extraordinary Session. Hon Leo T. MeCarthy, Speaker, Hon. Louis J Papan, Speaker pro Tempore; James D. Driscoll, Chief Clerk; Tony Beard, Sergeant at Arms; and Father Leo McAllister, Chaplain.

## APPOINTMENT OF COMMITTEE ON ESCORT

The Chief Clerk appointed Mr. Briggs as a Select Committee to escort Speaker-elect McCarthy and Speaker pro Tempore-elect Papan to the Rostrum.

## OATHS OF OFFICE ADMINISTERED

Hon. Leo T. McCarthy, Speaker-elect; Hon. Louis J. Papan, Speaker pro Tempore-elect; James D. Driscoll, Chief Clerk-elect; Tony Beard, Sergeant at Arms-elect; and Father Leo McAllister, Chaplain-elect, appeared at the bar of the Assembly and took and subscribed to the followng oath, adminstered by George Murphy, Legislative Counsel:

## Oath

I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Calıforna against all enemies, foreign and domestic; that I will bear
true farth and allegiance to the Constitution of the United States and the Coustitution of California; that I take this obligation freelv, without any mental reservation or purpose of evasion; and that I will well and fathfully discharge the duties upon which I am about to enter

## Speaker Presiding

At 129 pm , Hon Leo T MrCarthy, 18th District, presiding.

## APPOINTMENT OF SELECT COMMITTEES

Speaker MeC'arthy appointed Messrs Dixon, Arnett and Calvo, as a Select Committce to notify the Senate that the Assembly is ongamized for the 1975-76 Second Extraorlmary Spesion of the Leegishture and ready to proceed with the regular business

Speaker MeCarthy appointed Messr, Kapiloff, Gualoo. Keysor, Rosenthal, and Mrs Divis as a Select Committee to notify $\mathrm{I}_{15}$ Excellenery, Edmund G Brown Jr, Govermor of the State of Califorma, that the Assembly is otganzed for the 1975-76 Serond Extraordariry Session and ready to proceed with the regular busmess

## RESOLUTIONS

The following resolutions were offered:
By Assemblyman Ralph:
House Resolution No. 2
Relative to the Assembly Rules
Reablerd by the Assembly of the Stete of Cahfomm, That the Permanent Standing Rules of the Asemble for the 197.,-76 Reandar Seswon are lereby adopted as the rules for the 1975-76 Second Extraordinuy Scuston

Resolution read, and on motion of Mt. Ralph, aloptod by the followmig rote

| AYES-45 |  |  |  |
| :---: | :---: | :---: | :---: |
| Antomosich | Fipeland | Janchatr | Ralin |
| Almel: | Feliton | M1, | IRounthial |
| 16.thlal | Forin: | Me Lamant | Numiter |
| Joatwarht | Gintumendi | Mastie | silitr |
| H14\% | Gurgin | Viller | Thuma, Vment |
| ('lıx, |  | Mribus | Thomas, Willicm |
| Clorppie | ILat | Vulutad | '1 hillitim |
| ('himbole | II.silen | Mu11 | Farchectlon |
| (lime | Jntuls | Nimume | Winmm |
| (collate | Fiene | 1',1迷 | Theis |
| Werbleh | Laturater | Iudo | $3 \mathrm{I}_{1}$ Number |
| Dufl |  |  |  |

By Assmbla man Ralph

## House Resolution No. 3

Relatise to orgamyanom of the Arembly lior the

Resolierd by the . Iwathly of the state of ratrem tre. (1) That the
 to recent to the Gontrollire for all wariant hior the pasment of Members, Otherers, and Attarhin of the Asumbly.
(2) That the Chief Clerk is authorued to recent from the Members of the Assembly, a malung list of Hintories, to be duected to hbraries, chambers of commerce, and other publie centera, and to monnulual for general unpection This last in to be limuted to tell (10) namus each, and shall be forwarded to the Legiviatare Ball Room lor wablar maiing. No member shall melude on the list any state department or cmployee thereoteresept state collopen and mumenties The Chef Chark is furthew authorized to place ineredited mewspaper representatives on the regular maling hot as well as the Attornav cremeral, the office of the Legishitive Commel, and the Gotemor's Office

## Request for Unanimous Consent

Mr. Ralph was granted mammons wimedet to take up Honse Resolution No 3 without referenee to committer or file

Resolution read, and adopted by the following zote:

 Rule 47 , whed regunes the calluge of the roll fom $A$ to 7 for the purpose of introduction of bits, be temporaris sumpended

## APPOINTMENT OF COMMITTEES

Speaker McCathy was ghated mammons romsent that the following eommetees be apponted for the 1975-76 Nerond Fatidotmary
 Repuhat Smbion.

Ways and Means--.Foran (Chamman), Ianterman (Vare (hammam,

 amil $\%$ heig




 Ronmital

Judiciary-Miller (Chairman), Chel (Vice Chairman), Badham, Bannai, Beverly, Boatwright, Keene, McAlister, MeVittle, Torres, and Wilson

Revenue and Taxation--Boatwright (Chairman), McVittte (Vice Chairman), Alatorre, Bannal, Calvo, Chel, Chne, Kaploff, Lewis, Lockyear, Mor', Murphy, and Robinson

Rules-Ralph (Charman), Mobley (Vice Charman), Burke, Chappie, Davis, MacDonald, and Montoya

## INTRODUCTION, FIRST READING, AND REFERENCE OF ASSEMBLY BILLS

The following bills were introduced, read the first time, and ordered held at the Desk:

Assembly Bill No. 1: By Assemblymen Keene, McAlister, Berman, Egeland, Antonovich, Banna1, Calvo, Chappie, Garamend, Goggin, Hart, Lockyer, MacDonald, Mori, Papan, Rosenthal, Suegler Surtt, and Wornum-An act to amend Sections 125 5, 2100, 2101, 2361, 2362, 2364, and 23725 of, to add Sections $21005,21006,21007,21008$, $21015,21016,2122,2372,2372$ 1, and 23725 to, to add Article 23 (commencing with Section 2123) and Article 24 (commencing with Section 21245 ) to Chapter 5 of Division 2 of, to repeal Section 2372 of, and to repeal Article 23 (commeneing with Section 2123) of Chapter 5 of Division 2 of, the Business and Piofessions Code, to amend Section 3405 of, and to add Section 3406 to, the Code of Civil Procedure, to add Division 17 (commeneng with Section 21005) to the Health and Safety Code; and to add Section 11587 to the Insurance Code, relating to health, and making an appropriation therefor

Assembly Bill No. 2: By Assemblymen Kerne, Berman, Calvo, Chacon, Chappre, Egeland, Garamendi, Goggm, Hart, Lockyer, MacDonald, Mori, Sutt, and Wornum-An net to amend Sections 441 18, 442 11, and 12655 of, to add Part is (commencong with Sertion 1199) to Division 1 of, and to repeal Part 1 .') (rommencing with Section 437) of Division 1 of, the Health and Safety Code, relaturg to health services and facilities.

Assembly Bill No. 3: By Assemblyman Bane-An art to add Division 29 (commencing with Section 39900) to the FTedth and Safety Code, relating to medical malpractice, and makmg an appropriation therefor

Assembly Bill No. 4: By Assemblyman Goggin-An art to add Division 18 (eommenemg with Section 20000) to the Itealth and Safety Code, relatug to health, and making an appropriation thetefor

## MESSAGES FROM THE SENATE

Srunte (hamber, Vis 10,1075
 this das dilopted

Semate ('oncumput Revolution No 1

## first reading and reference of senate bills

The following resolution was read -
Senate Concurrent Resolution No. 1-Relative to the Joint Rules of the Senate and Assembly.

## Hon. John F. Foran Presiding

At 1.37 pm , Hon John F Foran, 16th District, presiding.
REQUEST FOR UNANIMOUS CONSENT TO TAKE UP SENATE CONCURRENT RESOLUTION NO. 1
Mr Ralph was granted unanimous consent to take up Senate Concurrent Resolution No 1 without reference to committee, print, or file.

Consideration of Senate Concurrent Resolution No. 1
Senate Concurrent Resolution No. 1-Relative to the Joint Rules of the Senate and Assembly.

Resolution read, presented by Mr Ralph, and adopted by the following vote:

| AYES-60 |  |  |  |
| :---: | :---: | :---: | :---: |
| Antonovich | Cullen | Keene | Papan |
| Arnett | Davis | Key sor | Priolo |
| Barlham | Deddeh | Lanenster | Ralph |
| Bane | Divon | Lanterman | Rolinson |
| Banual | Duffy | Lewis | Romentina |
| Bortwright | Egeland | Lochyer | Sipgler |
| Bilgs | Fenton | Micalinter | silitt |
| Burke | Foran | MeVittue | Thomas, Yincent |
| Calvo | Garamendi | Dieade | Thomar Whllamm |
| Carpenter | Gogria | Miller | Thum man |
| Chacon | Gualco | Mobley | - Viruconcellos |
| Chappre | Hart | Morı | Vicencia |
| Chimbole | Hity ilen | Murphy | Wrinum |
| Cline | Ingalls | Nertande | Zherg |
| Collter | Knpuloff | Nimmo | Mr. Sipuker |
| NOES-None |  |  |  |

Resolution ordered fratismitted to the Senate.
Speaker Presiding
At 1.43 pm , Hon Leo T MeCarthy, 18th Distriet, presiding RECESS
At 1:44 p m, Speaker MeCarthy deelared the Assembly reeessed.
REASSEMbLED
At 445 pm , the Assembly reconsened
Hon Leo T McCartly, Speaker of the Assembly, presidmg.

REFERENCE OF 日ILLS TO COMMITTEE
Pursuant to the Assembly Rulen, the following bills were referred to committpe

Assembly
Bull No
Committre


4_-_-_-.....-.-.-.-.-. Health

## ADJOURNMENT

At 446 pm , Sperker Med'arthy derlared the Assembly adjourned until 9 a m, Tursulay, May 20, 197.5

LEO T MuC'ARTIIY, Speaker
ANABEL FLELRY, Mmute Clerk

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## CAlIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAIIY JOURNAL

SECOND LEGISLATIVE DAY
SECOND CALENDAR DAY

## IN ASSEMBLY

Assembly Chamber. Sacramento
Tuesday, May 20, 1975
The Assembly met at $10 \cdot 33 \mathrm{a} \mathrm{m}$
Hon Louis J. Papan, Speaker pro Tempore of the Assembly, presidung

Chief Clerk James D Driscoll at the Desk,
Assistant Clerk Ray Monday reading
ROLL CALL
The roll was called, and the following answered to their names-72:

| Alatorre | Chimbole | Incals | Nimmo |
| :---: | :---: | :---: | :---: |
| Antonesich | Cline | Kriploft | Papan |
| Arnett | Collier | Kes cor | Perino |
| Badham | Craven | Jancaster | Priolo |
| Bane | Cullen | Lanterman | Ralph |
| Bannat | Davis | Jewts | Rowenthal |
| Berman | Dedlleh | Loeksier | Sipgler |
| Reserla | Dinon | Maciomajd | Sieroty |
| Boatwright | Duff | Alnds | Suitt |
| Brige: | Egeland | Micalster | Thumas. Vincent |
| Brown | Fenton | Niclaman | Thomas, Wilham |
| Rurke | Farna | NcVittie | 'Thurman |
| Calso | Ginramend: | Mernit | Yayeoncellos |
| Camphell | Gropgin | Miller | Yielencin |
| Carjenter | Greene | Mobles | Wilson |
| ('hacon | Gualco | Monto a | Wronmm |
| Chnipre | Hart | Mori | 2'berg |
| Chel | Huyden | Murpin | Mr Speaker |

Quorum present.

## REGULAR BUSINESS DISPENSED WITH

By unanimous consent, the regular order of busmess of the Assembly was dispensed with for this legislative day.

## LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of allsence for the day, because of illness:

Mr. Tucker, on request of Speaker pro Tempore Papan.
The following Members were granted leaves of absence for the day, on personal business, and desired to waive their per diem.
Mr Keene, on request of Speaker pro Tempore Papan.
Mr Knox, on request of Speaker pro Tempore Papan
Mr Nestande, on request of Speaker pro Tempore Papan.
Mr. Robinson, on request of Speaker pro Tempore Papan.
Mr Torres, on request of Speaker pro Tempore Papan
Mr. Warren, on request of Speaker pro Tempore Papan.

NOTE For letter explaning the absence of Mr Warren on this day, see Assembly Daly Journal for the Regular Session for thas day

## REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bill was referred to committee.
Assembly
Ball No.
3...................................... Insunce, and Commerce

RECESS
At 1034 a m, Speaker pro Tempore Papan declared the Assembly recessed.

## REASSEMbled

At $3 \cdot 16 \mathrm{pm}$, the Assembly reconvened.
Hon Leo T McCarthy, Speaker of the Assembly, presiding
ADJOURNMENT
At 317 pm , Speaker McCarthy declared the Assembly adjourned until 9 a.m, Wednesday, May 21, 1975.

LEO T. MeCARTHY, Speaker
anabel Fleury, Minute Clerk

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAlLY JOURNAL

## THIRD LEGISLATIVE DAY <br> THIRD CALENDAR DAY

## IN ASSEMBLY

Assembly Chamber, Sacramento
Wednesday, May 21, 1975
The Assembly met at 10:33 a.m.
Hon Robert P. Nimmo, Member of the Assembly, 29th District, presiding.

Chief Clerk James D Driscoll at the Desk
Assistant Clerk Ray Monday reading

## ROLL CALL

The roll was called, and the following answered to their names- $\mathbf{7 3}$.

| Alatorre | Colluer | Keysor | Papan |
| :---: | :---: | :---: | :---: |
| Antonovich | Cullen | Lancaster | Perino |
| Arnett | Davis | Lapterman | Priolo |
| Balham | Deddeh | Lewis | Rnlph |
| Bane | Dixon | Lockser | Robinson |
| Bannal | Duffy | MaeDonald | Rosenthal |
| Brrman | Egeland | Maddy | Siegler |
| Bevers | Fenton | McAlister | Simpors |
| Boatnright | Foran | McLemnan | Thomas, Vincent |
| Briggs | Gnramends | MeYittie | Thomar. Willam |
| Burke | Goggin | Mreade | Thurman |
| Calso | Greene | Miller | Torres |
| Camphell | Gualco | Mobley | Varcozcellos |
| Curpenter | Hart | Montoya | Vicencia |
| Chamon | Flajcen | Mort | Wilson |
| Chappe | Ingalls | Murphy | W'ornum |
| Chel | Kapuloff | Nertande | Z'liers |
| Chinulole Cline | Keene | Nimmo | Mı Speaker |

Quorum present.

## REGULAR BUSINESS DISPENSED WITH

By unanımous consent, the regular order of business of the Assembly was dispensed with for this legislative day.

## LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness

Mr Craven, on request of Acting Speaker Nimmo.
Mr Tucker, on request of Acting Speaker Nimmo
The following Members were granted leaves of absence for the day, on personal busmess, and desired to waive their per diem.

Mr Brown, on request of Acting Speaker Nimmo
Mr Knox, on request of Acting Speaker Nimmo
Mr Suitt, on request of Acting Speaker Nimmo.
Mr. Warren, on request of Acting Speaker Nimmo

NOTE For letter explaining the absence of Mr Warren on this day, see Assembly Daly Journal for the Regular Session for May 20, 1975, page 5236

## INTRODUCTION, FIRST READING, AND REFERENCE OF ABSEMBLY BILLS

The following bills were introduced, read the first time, and ordered held at the Desk .

Assembly Bill No. 5: By Assemblyman Duffy-An act to amend Sections 125 5, 2100, 2101, 2119, 2361, 2362, 2364, 23725, 2436, and 2454, of, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, Sections 21005,2100 6, 2100 7, 2100 8, 2101 5, 2122 to, Article 23 (commencing with Section 2123) to Chrpter 5 of Division 2 of, and Sections 2372, and 2372.1 to, and to repeal Artacle 11 (commenemg with Section 800) of Chapter 1 of Division 2 of, Article 23 (commencing with Section 2123) of Chapter 5 of Division 2 of, and Section 2372 of, the Business and Professions Code, relating to the healing arts, and making an appropriation therefor

Assembly Bill No. 6: By Assemblyman Goggin-An act relating to physicians and surgeons and making an appropriation therefor.

## RECESS

At 1034 a m., Acting Speaker Nimmo declared the Assembly recessed
REASSEMBLED
At 2.47 pm , the Assembly reconvened.
Hon Robert P Nimmo, Member of the Assembly, 29th District, presiding

## ADJOURNMENT

At 248 pm , Acting Speaker Nimmo declared the Assembly adjourned until 1 pm, Thursday, May 22, 1975.

LEO T McCARTHY, Speaker
aNABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBIY DAIIY JOURNAL <br> FOURTH LEGISLATIVE DAY <br> FOURTH CALENDAR DAY

IN ASSEMBLY

-Assembly Chamber, Sacramento<br>Thursday, May 22, 1975<br>The Assembly met at 4.13 pm .<br>Hon Lous J Papan, Speaker pro Tempore of the Assembly, presiding<br>Chief Clesk James D Driscoll at the Desk.<br>Assistant Clerk Ray Monday reading.

ROLL CALL
The roll was called, and the following answered to their names- $\mathbf{7 3}$.

| Alatorie | Collter | Ke, sor | Perino |
| :---: | :---: | :---: | :---: |
| Antonovicly | Cullen | Lanenster | Ptiolo |
| Arnett | Dasis | Lanterman | Ralph |
| Brne | Hedidels | Lewts | Robinvon |
| Pinnoa | Draon | Lock! er | Roventhal |
| Berman | 1)uff | MacI)onald | Steprer |
| Hevely | Egeland | Mnddy | Sietota |
| Bontwisht | F'esiton | McAlinter | Sunt |
| Briges | Foran | MeJamnan | Thomms, Fineent |
| Hrowis | Garamendi | Nelittie | Thomas, Willarm |
| Hurke | (iohyin | Mende | 'Ihuo man |
| Crallo | Grepme | Maller | Tollan |
| C'amphell | Gualco | Mobley | Yasconcellos |
| Caturnter | Halt | Montoya | Vieenca |
| Chacon | Hasden | Mori | Wilmon |
| Clnnuple | Ingnis | Murphy | Wormum |
| Chel | Krpiloff | Nimmo | Z'luers |
| Chambole | Kepne | Papan | Mr Speaker |

Quorum present.

Upon invitation of Speaker pro Tempore Papan, the following prayer was offered by Honorable Ken MacDonald, Member, 36th Assembly District

God Our Father, We stand before You today as humble men and women seekug Thy wisdom to decide the difficult issues We appear to be at a crossroads in the course of our society Help us to stand firm against the sperial interests who would prevail without thought of the consequences upon others Help us to reorder our priorities in keepng with the standards of general public interest and economic and social reality Bless our legislative leadership and Governor Brown in guiding our steps to fair and equitable solutions to problems Finally, rekindle our faith in You, 0 God-AMEN

## pledge of allegiance to the flag

Upon request of Speaker pro Tempore Papan, Mr Miller then led the Assembly in the pledge of allegiance to the Flag

## MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr Hayden, seconded by Mr Foran

## LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illuess:

Mr. Craven, on request of Speaker pro Tempore Papan
Mr. Tucker, on request of Speaker pro Tempore Papan.
The following Member was granted leave of absence for the day, on legislative business

Mr. Warren, on request of Speaker pro Tempore Papan.
The following Members were granted leaves of absence for the day, on personal busmess, and desired to waive their per diem-

Mr Badham, on request of Speaker pro Tempore Papan
Mr Knox, on request of Speaker pro Tempore Papan
Mr. Nestande, on request of Speaker pro Tempore Papan.

NOTE - For letter evilaming the absence of Mr Warren on thas day on legaslatise business purnunt to the Amembly Rules, gep Assembly Danly Journai for the Regular Session for this das

## INTRODUCTION, FIRST READING, AND REFERENCE OF ASSEMBLY BILLS

The following bils wese mitroduced, read the first time, and ordered held at the Desk.

Assembly Bill No. 7: By Assemblymen Z'berg and Kapiloff-An act to amend Section 102] of, and to add Section 1021.1 to, the Code of Civil Procedure, relating to malpractice actions.

Assembly Bill No. 8: By Assemblymen Carpenter and Kapiloff-An aet to add Division 5 (commencing with Section 14000) to the Insurance Code, relating to medical malpractice, and making an appiopiation therefor

## REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bills were referred to committee:
Assembly
Bull No.

## Committee




## ANNOUNCEMENTS

Speaker pro Tempore Papan announced that there would be a special joint meeting of the Committees on Health and Judiciary on June 5, 1975, at 7.30 pm

## ADJOURNMENT

At 414 p.m., Speaker pro Tempore Papan declared the Assembly adjourned untıl Il a m. Friday, May 23, 1975.

LEO T McCARTHY, Speaker
ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

# $\overline{A S S E M B L Y ~ D A L I Y ~ J O U R N A L ~}$ <br> FIFTH LEGISLATIVE DAY <br> FIFTH CALENDAR DAY 

IN ASSBMBLY

## Assembly Chamber, Sacramento Friday, May 23, 1975

The Assembly met at 1234 pm .
Hon Leo T. MeCarthy, Speaker of the Assembly, presiding
Chief Clerk James D Driscoll at the Desk.
Assistant Clerk Ray Monday reading.

## ROLL GALL

The roll was called, and the following answered to therr names-73:

| Antonovich | Collur | Ker \%ог | Papan |
| :---: | :---: | :---: | :---: |
| Arnett | Cullen | Lancanter | l'erino |
| Badham | Davis | Isuterman | Priolo |
| לane | Dedidrh | Lewls | Rajpli |
| Bannat | Dinon | Iockier | Rosenthal |
| Berman | Duffy | MacDounld | Sieglet |
| Beserls | Egelairt | Mrdds | Sicrot: |
| Boatu right | Fenton | MirAlister | Suit ${ }^{\text {S }}$ |
| Filers | Faran | McJennan | ${ }^{\text {Thomas, Vincent }}$ |
| Lrown | Garamend | McTittue | Thomst, Wıllam |
| Burke | (lught | Minde | ${ }^{\text {Alharman }}$ |
| Caluo | Sirepne | Niller | Torres |
| Campliell | Gualco | Mobley | Vacconepllos |
| Cmipenter | Hart | Moutosa | Vicencia |
| Charon | Havden | Mor] | Wilson |
| (haprye | Ingalla | Murphy | Wornimm |
| Chel | Kapuloff | Nestande | Z'berg |
| Chimbole | Keenp | Nigmo | Mr. Speaker |

Quorum present.

## PRAYER

Upon invitation of Speaker McCarthy, the following prayer was offered by the Honorable Ernest N. Mincbley. Member, 31st Assembly District:

Father, This morning we ask Your blessing on all who are assembled here. We ask You to watch over this legislative body as we work for the welfare of society. You are ever aware of our hopes and our needs and we beg You to give us guidance so that we may carry out Your work with dedication and love.

We thank You for this beautiful State of Callfornia, for her parks. streams, ocean sky, und fertile soil We thank You for siving us opportunities to enjoy the wonders of Your making We ask You to watch over all of Your children on this holiday weekend to get them safely to their destinations and homes. We ask Your blessings for those who gave their lives so this country may be free, to watch over our sorviere men and women who served so bravely and who reside in our hospitals, for those who will go through life handicapped Grant us the ubility to live peacefully among our fellow men Look kindle upon us and give us peace.-AMEN.

## pledge of allegiance to the flag

Upon request of Speaker MrCarthy, Mr Rosenthal then led the Assembly in the pledge of allegiance to the Flag.

## READING OF THE JOURNAL DISPENSED WITH

By unanimous consent. reading of the .tournal of the previous legislative day was dispensed with.

## LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness:

Mr. Craven, on reguent of Speaker McCarthy.
Mr. Robinson, on request of Speaker McCarthy.
Mr Tucker, on request of Speaker Mc'('arthy.
The following Member was granted lenve of absence for the day, on legislative business:

Mr. Warren, on request of Speaiker McCarthy.
The following Member was granted leave of absence for the day, on personal business, and desired to wave his per diem

Mr. Knox, on request of Speaker MeCarthy.
The following Member was granted leave of absence for the day, because of illness in his family:

Mr. Alatorre, on request of Speaker MeCarthy.

[^0]
## REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bills were referred to committee:

Assembly
Bill No.


INTRODUCTION, FIRST READING, AND REFERENCE OF ASSEMBLY BILLS
The following bills were introduced, read the first time, and ordered held at the Desk.

Assembly Bill No. 9: By Assemblyman MeLennan-An act to add Chapter 8 (eommencing with Section 465) to Division 1 of the Business and Professions Code, to amend Section 3333 of, and to add Article 5 (commenemg with Section 3361) to Chapter 2 of Title 2 of Part 1 of Division 4 of, the Cuvil Code and to add Section 6675 to the Code of Civil Procedure, relating to medical malpractice, and making an appropriation therefor

Assembly Bill No. 10: By Assemblymen Goggin, Bane, Berman, Boatwright, Calvo, Egeland, Gualco, Mart, Kapiloff Miller. Papan, Rosenthal, Sieroty, Wilson, and Z'berg-An act to add Article 8 (commencing with Section 1325) to Chapter 2 of Division 2 of the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect ummediately.

ASSEMBLY BILL NO. 10 REFERRED TO COMMITTEE
Speaker McCarthy referred Assembly Bill No 10 to the Committee on Fmauce, Insurance, and Commerce.

## AUTHOR'S AMENDMENTS <br> Committee on Health

 Assembly Chamlee, Mis 23. 1975Mr Spenket. The Chan man of sour Commitee on Health ieprots,
Askembly Bill No 2
 Committee on Hentrh

## KFIANF ('lunirman

Assembly Bill No. 2-An art to amend Sections 441 18, 442 11, and 1265.5 of, to add P'art 5 (commenemg with Section 1199) to Division 1 of, and to repeal Part 15 (commencing with Section 437) of Division 1 of, the Health and Safety Code, relating to health services and facilaties

Bill read second tume.
Consideration of Author's Amendments
The following author's amendments, pursuant to the Assembly Rules, were read, and idopted

Amendment 1
In line 3 of the heading of the printed bill, strike out "and Wornum', and msert "Wornum, Boatwright, Keysor, Rosenthal, and Vincent Thomas"

## Amendment 2

In line 1 of the title, strike out " 442.11, ".

## Amandment 3

In line 2 of the title, after the comma, insert "to repeal Section 442.11 of,".

## Amendment 4

On page 4, strike out lines 33 to 40 , inclusive; and on page 5 , strike out lines 1 to 6 , inclusive, and insert "is repealed"

## Amendment 5

On page 12, between lines 14 and 15 , insert
"( $t$ ) "Rates" means the allowable charges for care in Pachities defined in subdivisions (e), (f), and (h) of this section."

## Amendment 6

On page 12, line 20, after " $93-641$ ", insert "and to establish a system to retard cost increases in health facilities'.

## Amandment 7

On page 13, between lines 25 and 26, insert
" (h) To establish rates for care of patients in facilities defined in subdivisions (e), (f), and (h) of Section $1199.2^{\prime \prime}$

Bill ordered reprinted, and to be re-referred to the Committee on Health.

REFERENCE OF BILLS TO COMMITTEE
Pursuant to the Assembly Rules, the following bills were referred to committee:

## Assembly <br> Bill No. <br> Committec <br> 9--------------------Judiciary <br> ADJOURNMENT

At 12:35 p.m., Speaker MeCarthy declared the Assembly adjourned until 10 a.m, Tuesday, May 27, 1975.

LEO T. McCARTHY, Speaker
ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

# ASSEMBIY DAIIY JOURNAL <br> sixth legislative day <br> NINTH CALENDAR DAY <br> In Assimbiy 

Assembly Chamber, Sacramento
Tuesday, May 27, 1975
The Assembly met at $10.33 \mathrm{a} . \mathrm{m}$.
Hon Leo T MeCarthy, Speaker of the Assembly, presiding Chief Clerk James D Driseoll at the Desk
Assistant Clerk Ray Monday reading.
ROLL CALL
The roll was called, and the following answered to their names-74:

| Alatorre | Cline | Key vor | Priolo |
| :---: | :---: | :---: | :---: |
| Antonowich | Collier | Knox | Ralph |
| Arnett. | Cullen | Junncaster | Rolunson |
| Badham | Dasis | Janterminn | Rosenthal |
| Baue | Deldeh | Liewis | Siegler |
| Banimi | Dian | Lockyer | Sileroty |
| Berman | Dufty | Madil) | Suit |
| Bes erly | Egelairl | McAlinter | Thomas. Yincent |
| Boatwright | Fenton | Mciemana | Thiomas. William |
| Briges | Foral | MeVitue | Thurman |
| Brown | Garamend | Miller | Tones |
| Hurhe | Gogisin | Moliles | Vasconcelios |
| Calyo | Greene | Montosa | Viceneda |
| Cuniphell | Guntco | Mori | Whrsen |
| Carpenter | Hat | Murph, | Walson |
| Chncon | Havden | Nestanile | Wornum |
| Chappe | Ingils | Papna | Z'berg |
| Chel | Knpiloft | L'eimo | Mr. Speaker |
| Chimbole | Fierne |  |  |

Quorum present.

## PRAYER

The following prayer was offered by the Chaplain, Father Lapo MeAllister:

Father, In this world we make much of the fuith we profess, the political philosophy we adhere to, and many other peripheral labels Make os ever aware that we will not be judged by the orthodoxy of our creed, but by the sincerity with which we have lived it ; that we will be judged not by the flamboyance with which we have worn our political or other labels, but by the responsibility and crativity which should accompany them.

Help us, Father, to always find our way, above and beyond the things that divide us, to generosity, to love and self-sacrifice and to the service of others.-AMEN.

## PLEDGE OF ALLEGIANCE TO THE FLAE®

Upon request of Speaker McCarthy, Mr Mori then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL
Further reading of the Journal of the previous legrislative day was dispensed with on motion of Mr. Cullen, seconded by Mr. Beverly

## LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness:

Mr. Craven, on request of Speaker MeCarthy.
Mr. Meade, on request of Speaker MeC'arthy
Mr. Tucker, on request of Speaker MeCarthy.
The following Members were granted leaves of absence for the day, on personal business, and desired to waive their per diem:
Mr. MacDonald, on request of Speaker MrCarthy.
Mr. Nimmo, on request of Speaker McCarthy.
COMMUNICATIONS
Asspmbly Chamber, Man 27, 1975
Mr. Speaker: Pursuant to sour matructuons, the Chief Cleak bar avamined
Aswembly Bill No 2
And reporte the mame correctly eagromed.
JAMES D. DRISCOLLL, Chief Clerk
Above bill re-referred to committee.

## ADJOURNMENT

At $10: 34 \mathrm{am}$., Speaker MeCurthy declared the Asscmbly adjourned until 1 pm ., Thursday, May 29, 1975.

> LEO T. MeCARTHY, Speaker

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

# ASSEMBIY DAIIY JOURNAL 

beventh legislative day
eleventh calendar day
IN ABBELBLT

Assembly Chamber, Sacramento
Thursday, May 29, 1975
The Assembly met at 3.20 pm .
Hon Leo T McCarthy, Speaker of the Assembly, presiding. Chief Clerk James D. Driscoll at the Desk. Assistant Clerk Ray Monday reading.

## ROLL CALL

The roll was called, and the following answered to their names-74:

| Alatorce | Colher | Knox | Priolo |
| :---: | :---: | :---: | :---: |
| Antonorich | Cullen | Lancaster | Rilph |
| Arnett | Davia | Lanterman | Roblnson |
| Badham | Deldeh | Lewis | Rosenthal |
| Bramas | Inion | Locker | Siegler |
| Rerman | Dufy | Maddy | Sheroty |
| Beserly | Egeland | McAlister | Suitt |
| Boatwright | Feliton | MlcJomman | Thomas, Vincent |
| Briggn | Forun | MeVitue | Thomas, Willam |
| Brown | Guramendi | Meade | Thairman |
| Burke | Gokgin | Miller | Torres |
| Calvo | Greene | Monley | Vascoucellon |
| Camphell | Gumeo | Montnya | Vicencia |
| Caryenter | Hart | Mori | Warren |
| Chacon | Hasclen | Nestande | Wismon |
| Chappe | Ingalia | Nimmo | Wornum |
| Chel | Kapiloft | Papan | Z'berz |
| Chimbole | Krene | Perino | Mr. Speaker |
| Chne | Kes wor |  |  |

Quorum present.

## PRAYER

Upon invitation of Speaker McCarthy, the following prayer was offered by the Honorable Bill MeVattie, Member, 6Jth District:

0 Lord, We are aware that the only value of a life is its content, for others We also know that in Your Kingdom, all works are equal, our greatest and our smallest Save us then, from waiting idiy for the moment of a great work to be done by and by. Help us to snatch from eare passong moment the opportunity of quietly doing for others each day's needed chores,-AMEN.

## pledae of allegiance To The flag

Upon request of Speaker MeCarthy, Mr Vicencia then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENEE WITH READING OF THE JOURNAL
Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Meade, seconded by Mr. Collier.

## LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness :

Mr. Craven, on request of Speaker McCarthy.
Mr Tucker, on request of Speaker McCarthy.
The following Member was granted leave of absence for the day, on legislative business:

Mr. Bane, on request of Speaker McCarthy.
The following Members were granted leaves of absence for the day, on personal business, and desired to waive their per diem :

Mr. MacDonald, on request of Speaker McCarthy.
Mr. Murphy, on request of Speaker MeCarthy.

NOTE: For lettor explaining the absence of Mr Bane on this day on legislative busmess pursuant to the Assembly Rules, see Assembly Daily Journal for the Regular Session for this day

## INTRODUCTION, FIRST READING, AND REFERENCE OF ASSEMBLY BILLS

The following bills were introduced, read the first time, and ordered held at the Desk:

Assembly Bill No. 11 : By Assemblyman Montoye-An act to amend Sections 11770, 11773, 11774, 11777, 11778, and 11779 of, to add Part 7 (commencing with Section 12700) to Division 2 of, and to add Division 46 (commencing with Section 14000) to, the Insurance Code, and making an appropriation therefor.

Assembly Bill No. 12: By Assemblymen Bane, Carpenter, and Rob-inson-An act to add Article 7 (commencing with Section 11890) to the Insurance Code, relating to medical malpractice, and making an appropriation therefor.

Assembly Bill No. 13: By Assemblyman Camphell-An act to amend Sections 2123.2 and 2129.3 of the Business and Professions Code, relating to physicians and surgeons.

Assembly Bill No. 14: By Assemblyman Campbell-An act to add Article 12 (commencing with Seetion 825) to Chapter 1 of Division 2 of the Business and Professions Code, relating to malpractice actions.

Assembly Bill No. 15: By Assemblyman Campbell-An act to add Title 14 (commencing with Section 1822e) to Part 3 of the Code of Civil Procedure, relating to medrcal malpractice.

Assembly Bill No. 16: By Assemblyman Campbell-An act to add Article 15 (commencing with Section 12935) to Chapter 1 of Division 3 of the Insurance Code, relating to medical statistics.

Assembly Bill No. 17: By Assemblyman Campbell-An act to add Section 3361 to the Civil Code, relating to damages, and declaring the urgency thereof, to take effect immediately.

Assembly Bill No. 18: By Assemblyman Campbell-An act to add Chapter 5 (commencing with Seetion 364) to Title 2 of Part 2 of the Code of Civil Procedure, relating to the commencement of eivil actions.

[^1]Assembly Bill No. 20: By Assemblyman Campbell-An act to add Section 11588 to the Insurance Code, relatung to medical malpractice insurance.

Assembly Bill No. 21: By Assemblyman Campbell-An act to add Section 33331 to the Civil Code, relating so damages.

Assembly Bill No. 22: By Assemblyman Robinson-An act to add Sections 805 and 21913 to the Business and Professions Code, to add Section 33331 to, and to add Part 6 (commencing with Section 6000) to Division 4 of, the Civil Code, to repeal and add Section 340.5 of the Code of Civil Procedure, and to add Section 18587 to the Insurance Code, relating to medical malpractice

## ADJOURNMENT

At 3.21 pm , Speaker MeC'arthy declared the Assembly adjourned until Il a m, Friday, May 30, 1975.
LEO T. MeCARTHY, Speaker
aNABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

# ASSEMBLY DAllY JOURNAL 

EIGHTH LEGISLATIVE DAY
TWELFTH CALENDAR DAY

If Assembly

Assembly Chamber, Sacramento
Friday, May 30, 1975
The Assembly met at $2: 34 \mathrm{p}$ m. .
Hon Leo T McCarthy. Speaker of the Assembly, presiding
Chief Clerk Jumes D. Driseoll at the Desk.
Assistant Clerk Ray Monday reading
ROLL CALL
The roll was called, and the followng answered to their names- $\mathbf{7 4}$.

Alatorre
Antonow jeb
Amblt Badham
Bane
Banmi
Bermatn
Heverls
Boatwright
Brifus
I3105n Burke
C'alvo
Cnimberl
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Chinonts
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Janitrimna Rowenthal
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Miller
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Mentors a
Muri
Vrutande
Ninuma
Papan
Ferino

Nienfrer
Siemal
smatt
Thomas, Vincent
Thomav. William
Thurman
Turien
Yasconcellob
Viceneia
Wirren
Willum
Wormum
Z.herk

Mr Spenker

Quorum present.

## PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

God, our Father, It is our hoped for goal, as well as our prayer, for your help to establish a civiluzation fonnded on world solidarity.

Help us to begin a dialogue based on man and not on commodities or technical skills. May we work with and in organizations whose goal is to establish an order of peace and justice which is universally recognized. Help us to look on all people, not just some, as brothers and sisters.

Each step in this direction is one more step closer to You, God AMEN.

## pledge of allegiance to the flag

Upon request of Speaker MeCarthy, Mr Collier then led the Assembly in the pledge of allegiance to the Flag.

## READING OF THE JOURNAL DISPENSED WITH

By unanimous consent, reading of the Journal of the previous legislative day was daspensed with.

## LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day. because of illness:

Mr Craven, on request of Speaker pro Tempore Papan.
Mr. Tucker, on recluest of Speaker pro Tempore Papan.
The following Member was granted leave of absence for the day, on legislative business:

Mr. Meade, on request of Speaker pro Tempore Papan.
The following Members were granted leaves of absence for the day. on committee busmess, and desired to waive their per diem:

Mr. MacDonald, on request of Speaker pro Tempore Papan.
Mr Murphy, on request of Speaker pro Tempore Papan.

NOTE: For letter explaining the absence of Mi Meade on thiw day on legislative busuness pursuant to the Assembly Rules, spe Assembly Daily Journni for the Regular Session for this day.

## INTRODUCTION, FIRST READING, AND REFERENCE OF ASSEMBLY BILLS

The following bill was introduced, read the first time, and ordered held at the Desk:

Assembly Bill No. 23: By Assemblymen Stegler, Goggin, Berman, Boatwright, and Montoyn-An act to add Chapter 12 (commeneng with Section 4950) to Division 2 of the Business and Professions Code, relating to medical malpractice reports, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

REFERENCE OF BILLS TO COMMITTEE
Pursuant to the Assembly Rules, the following bills were referred to committee:

Assembly
Bull No.

12.-.................................. Insurance, and Commerce










23_-_---------.-..........Judiciary
RECESS
At 2:35 p.m, Speaker McCarthy deelared the Assembly recessed.
REASSEMBLED
At 3:10 p m , the Assembly reconvened.
Hon. Leo T McCarthy, Speaker of the Assembly. presiding.

## AUTHOR'S AMENDMENTS

## Committee on Judiciery

Asarmill Chamber, May 30, 1075
Mf Speaker The Chairman of sour ('mmmitep on Judictars requrta*
Aswembly Rill No 1
With author'4 amendmpnta with the recommendation amend, and re-refer to the Committee on Judiems)
MIII.ER. (hairman

Assembly Bill No. 1-An act to amend Sections 125 5, 2100, 2101, 2361. 2362, 2364, and 23725 of, to add Sections $21005,2100.6,2100.7$, $21008.21015,21016,2122,2372,23721$, and 23725 to, to add Article 2.3 (commencmp with Section 2123) and Article 24 (commencmg with Section 2124 J) to ('hapter 5 of Division 2 of, to repeal Section 2372 of, and to repeal Article 23 (commencmi with Sertion 2123) of Chapter $\bar{J}$ of Drusion 2 of, the Busmess and Professony Code; to amend Section 3ti).5 of, and to add Seetion 3406 to, the ('olle of Civil Precedure; to add Division 17 (commencing with Section 2l(005) to the Health and Safety (code, and to add Section 11587 to the Insurance Cocle, relating to health, and making an appropration therefor.

Bill read second tume.

Consideration of Auther's Amendments
The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Set No. 1
Amendment 1
In line 2 of the title of the printed bill, strike out "and 2372 5", and insert " $2372.5,2436$, and 2454".

## Amendment 2

In line 3 of the title, strike out "2872.1, and 23725', and insert " and 2372.1".

## Amendment 3

On page 19, line 8, strike out "from," and insert ", from".
Amendment 4
On page 20, line 15, after "by", insert "the".
Amendment 5
On page 24, line 32 , strike out "a licentiate", and insert "licentiates'.

## Amendment $\mathrm{a}_{6}$

On page 25 , line 6 , strike out "a public member', and insert "public members'.

## Amendment 7

On page 28, İne 17, strike out "filed", and insert "filled'"
Amendmant 8
On page 36 , line 8 , strike out '"proceeding", and insert 'preceding'".

## Amandment 9

On page 37, line 4, after "SEC 28 ,", insert "If any provision of this act or the application thereof to any person or curemastances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the mivalid provision or application, and to this end the provisous of this act are severable.

SEC. 29."
Set No. 2

## Amendment 1

In line 9 of the title of the printed bill, strike out ", and to add Section 340.6 to, "

## Amendment 2

On page 34, hne 40, after " $a$ ", insert "physscian and surgeon"

## Amendment 3

On page 35, line 9, strike out "four years"; strike out lines 10 to 17, inclusive, and insert "on or after the effective date of this sertion, the time for the commencement of action shall be three years, which shall be calculated from the date of the alleged wrongful act, and not from any other date, except only upon proof of fraud, utentional concealment, or the presence of a foreign body in the person of the mjured person."

## Amendment 4

On page 35, strike out lines 18 to 30 , inclusive.

## Set No. 3

## Amendment 1

On page 12, line 28, of the printed bill, after the period, insert "In determining the amount of such insurance benefits for purposes of this section, insurance premiums paid by or on behalf of the insured to secure the insurance benefits shall be deducted from the total of such benefits which the elaimant has recesved or to which he is entitled."

Set No. 4
Amendment 1
On page 17, line 29, of the printed bill, strike out "hearing officer", and insert "panel comprised of three hearing officers'".

Amendment 2
On page 17, line 31, after the period, insert "Decisions of such hearing panels shall be by concurrence of at least two of the members thereof "

## Amendment 3

On page 17, lines 34 and 35 , strike out "the hearing officer", and insert "uny member of the hearing panel".

Amendment 4
On page 18, line 13, strike out "officer", and insert "panel'".
Amendment 5
On page 18, line 14, strike out "officer", and insert "panel".
Amendment 6
On page 18 , line 17 , strike ont " $a$ ", and insert "an appeals".
Amendment 7
On page 18 , line 21 , after "the", insert "appeals".

## Amendment 8

On page 18 , line 22 , strike out "appeal", and insert "appeals".

## Amendment 9

On page 19, line 1, strike out "officer", and insert "panel".
Amendment 10
On page 20, line 7, strike out "hearmg'", and insert "appeals'".
Sot No. 5

## Amendment 1

In line 4 of the heading of the printed bill, strike out "and Wornum", and insert "Wornum, Boaturight, Duffy, Keysor, Miller, Montoya, Vincent Thomas, and Thurman
(Coauthors: Senators Girene, Nejedly, and Rams)''.

## Amendment 2

In line 3 of the title, after the first "to," insert "to add Article 11 (commencong with Section 800) to Chapter 1 of Disision 2 of,".

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(2) 2-016
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## Amendment 3

In line 6 of the title, after " 2372 of," insert "to repeal Article 11 (commenemg with Section 800) of Chapter 1 of Division 2 of,".

## Amendment 4

On page 10 , line 10 , strike out " $A$ ", and insert "Upon the requisite finding of fault, $a^{"}$.

## Amendment 5

On page 22, between lines 39 and 40 , insert
"SEC' 22 Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of the Busmess and Professions Code is repealed

SEC. 23 . Artacle 11 (commencing with Section 800) is added to Chapter 1 of Division 2 of the Business and Professions Code, to read.

## Article 11. Legal Actions

800 (a) The Board of Medical Erammers, the Board of Dental Examiners, the Board of Osteoprthre Exammers, the C'aliformid Board of Registered Nursug, the Board of Vouational Nurse and Psuchatrue Technician Examiners, the State Board of Optometry, and the State Board of Pharmacy shall pach separately create and mantain a ceutral file of the names of all persons who hold a lieense. certificate or similar authority from such board Earh such central file shall be so rrated and mantained as to provide an indivadual historical record for each such person with respect to (1) any conviction of crme in this or any other state; (2) any judgment or settlement refuring hm or his insurer to pay any amount of damages in excess of three thousand dollars ( $\$ 3,000$ ) with respect to any clam that injury or death wat proximatply chused by such person's negligenee, error or omission in practice or rendering of umathorized professional services, (3) any public complants for whinh provision is heremafter made Each such central file may include such other items concernmg a hepisce or certificatee as the board, through its admmistrative staff, shall determme to be appropriate
(b) Each such board shall prescribe and promulgate forms on which members of the public and other licensees or certificateen mas file written complaints to the board allegug any act of misconduct or or connected with the performance of professional selvies by surf person.
(c) The contents of any such file shall be confidental exeret that they may be reviewed (1) by the person mvolved, (2) or his rounsel or other representative. (3) by any distruet attomey or representative or investigator therefor, (4) by ally represeutatise of the Attorney General's office or myestigator therefore, or (5) by any menturator of the Department of Consumer Affiars Such person may, but is not required to, submit any additional excolpatory or explanatory statements or other mformation which statements or other information must be included in the flle
801. (a) Every insurer providing professional linbility insurance to a person who holds a luense, certifirate or simular authorty from or under any agency mentined in Section 800 (a) (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) of

Division 2) shall send a complete report to that agency as to any settlement over three thousand dollars ( $\$ 3,000$ ) of a claim or action for damages for death or personal injury caused by such person's negltgence, error or omission in practice or his rendering of unalthorized professionat serviees Such report shall be sent within 30 days after such written settlement agreement has been reduced to writing and signed by all parties thereto.
(b) Notwithstandug any other provision of law, no insurer shall enter into such a settlement without the written consent of the msured, except that thas prohibition shall not void any settlement entered mo without such written consent The requinement of written consent can only be waved by both the insured and the msurer The provisions of this section shall only apply to a settlement on a polley of misurance executed or renewed on or after January 1, 1971
802. Every settlement over three thousand dollars $(\$ 3,000)$ of a claim or action for damages for death or personal injury caused by negligence, error or omssion in practure, or the unanthorized rendering of professionsl services, by a person who holds a license, certificate or other smmilar nuthority from an agency mentioned in Section 800(a) (except a person lacensed pursuant to Chapter 3 (commeneing with Section 1200) of Division 2) who does not possess professional hability insurance as to such claim shall, within 30 days after any such written bettlement agreement has been reduced to wroting and sloged by all the parties thereto, be reported to the digrucy whech issued the lieense. certuficate or smalar authority A complete report shall be made by appropriate meaus by such percon or his counsel, with a rony of such communication to be sent to the elamant through his comisel of he is so represented. or directly if he is not If, within 45 days of the conchusion of such written settlement arreement, counsel for the rlamant (or of he is not represented by counsel, the clamant himself) has not recelved a cony of the report, he shall homself make surli a complete report Frailure of the plyysuan or clamant (or, if represented by counsel, their counsel) to comply with the prosisioms of thas section is a publa offense punshable by a fine of not lass than fifty dollars
 intentional failuie to comply with the prosisons of thie section, or conspiracy or collusion not to comply with the provimons of this secttion, or to huder or mpede any other persom in sudi comphance is a publie offense punishable by a fine of wot less than fise thoundid dol-


803 Withen 10 days after the expiration of the time during whech an appenl conld have been taken from a find judrment that a pervon who holds a heense, certifinate or other sumbran anthority from an agency mentroned on Sectom $800(a)$ (axept a perom luensed purbant to Chapter 3 (rommenemg with Sertom 126(0) of Dixivon 2) has rembmatted a crime or in hable for any death or permonal minury edised by his negligenec, error or omsson mpadere, or has rembermin manthorized professonal services, the clenk of the court whith ifmemed such final judgment shall report the same to that agrener whinh matied the heense, certificate or other similar authority, provided that, where the
judge who tried the matter finds that it does not relate to the defendant's professional competence or integrity, he may, by order, dispense with the requirement that the report be sent.
804. (a) Any agency to whom reports are to be sent under Section 801 or Section 803 may develon a prescribed form for the making of such reports, usage of which it may, but need not, by regulation require in all cases
(b) A report reguired to be made by any of the foregoing sections shall be deemed complete only if it uncludes the following unformation(1) the name and last known busmess and residential addresses of every plaintiff or clamant involved in the matter, whether or not each such person recovered anything, (2) the name and last known business and residential addresses of every physician or provider of health care services who was clamed or alleged to have acted improperly, whether or not such person was a named defendant and whethir or not any recovery or judgment was had against such person; (3) the name, address and prucipal place of busmess of every msurer providing professonal labihty insurance as to any person named in (2) and the insnred's policy number; (4) the name of the court in. whels the action or any part of the action was filed along with the date of filmg and docket number of each such action, (5) a brief dis, ription or summary of the facts npon which each clam. charge or judement rested melnding the date of oceurrence; (6) the names and last known busmess and residential addresses of every person who acted as counsel for any party in the litgation or negotiations, along with an udentification of the party whom sald person represented; (7) the date and amount of final judgment or settlement, and (8) such other information as the agency to whom the reports are to be sent may require
(c) Erery person named in such report shall maintan for the period of three years from the filmy of suth report any rewords he has as to the matter in question and shall make those avalable upon retinest to the agency w ith which the report was filed

805 The chief udminstrator or executise officer of any county hospital or county meduel fachity or any chane, health facility general arute care hospital, mute psychidrie hoppotal, willed numbir farilits. untermediate care facilits, or spectal hospital hemoed pusuant to Division 2 of the Ilealth and Nafety Code (eommenemy with Serotion 1200) whall teport to the ageney wheh ishued the huense, certuficate, or simalar anthorty when any person who holds a lecume curtifiedte
 removed from the medied staff of suill matitution. or if his mitid staff provileges are restricted, for any cause or remon such taport shall be made wathm 10 davs following such remosal or resturtwon, shall be certified as true and correct by sad chapf admmatrator an other executive officer, and shall contain a statement detalme the nature of the action, its date and all of the reame for. and erremmstances surrounding, it If the removal or rentrietom is by romigntion, the report shall state whether the resigution was requested or bargrined for.
806. Each agency in the department receiving reports pursuant to the preceding sections shall prepare a statistical report based upon such records for presentation to the Legislature not later than 30 days after the commencement of each regular session of the Legislature, including any recummendations for corrective legislation if the department considers such legislation to be necessary

807 Each agency in the department shall notify every person licensed, certufied or holding smmar authority issued by it, and the departnent shall notify every insurance company domg business in this state and every institution mentioned in Section 805 of the provisions of this article
808. After the conclusion of any criminal case $m$ whech a person who holds a license, certificate or other smular authority from an agency mentioned in Section 800 (a) (except a person licensed pursuant to Chapter 3 (commeneing with Section 1200) of Division 2) 19 a defendunt, and after the rendermg of a verdict against any such person in any cavil action for damages for death or personal mjury caused by his alleged error, omission or negligence in practuce or rendering of unauthorized profesvional services, the judge who heard the matter shall convene a hearing without any jury The subject matter of the hearmg will be a determmation as to whether the preponderance of the evidence at the preceding trial demonstrated that the defendant had been ruilty of unprofessionall conduct as defined by Busmess and Professions Code Section 2361 If the judge determmes that an act of umprofessional conduct oceurred he shall fully describe the circumstances in findmos of fact which shall be transmitted to the agency within the department wheh issued the hernse, certificate or sumilar authority and such findung shall be conclusive as to the facts stated therein, except that a fiudiner in thes respect shall be appealable as would any other final judgment of the court If the court deternumes that the person is adduted to, or is a hubitual user of, my nareotwe restricted dangerous drugs, or controlled substamess is those terms arre used in Section 11082 of the Ifealth and Safety Code, or that, whale mader the influence of nleohol or any subh nareoties, restricted dangerons drugs or controlled substaces he rendered profesmonal serveen (other than serviees rendered neessary by the oetureme of an unexperterd emergency), or that the prepondreane of the evolenee mokeater that he has been, and probably will contmue to be, meompetent or gronsly negligent, the court ball sumpend has luence, eertificate or other smmar authority and shall eertify the fuct of surh umpromen to the rownty clerk of the county in wheh the heence or entifieate of the peron is recorded; prowded that at my tme after buch suspenmon the person may petition the agenty within the chepartment whely sumed the loweme, certhficate or smalar authority to rematate the sme nevordang to the procedures iegulaly proviled for such rembtatement Bufone makng any of the determmations set out in this seetion the eourt whall hear argument from the person aftecect and fiom any paty to the paceeling trinh and may hear further testmomal cudenee if such be me the interests of justice."

## Amendment 6

On page 25, line 20 , strike out "The standards"; strike ont lines 21 and 22, and insert "Using such standards, the division shall provide for periodic recertification of such certificate holders at intervals of not less than four nor more than six years"
Bll ordered reprinted, and to be re-referred to the Commuttee on Judiciary

## ADJOURNMENT

At 3.11 pm . Speaker McCarthy declared the Assembly adjourned until 9 a m , Monday, June 2, 1975

LEO T McCARTHY, Speaker
ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAILY JOURNAL

## Ninth Legislative day FIFTEENTH CALENDAR DAY

## IN ASSEMBLY

Assembly Chamber, Sacramento<br>Monday, June 2, 1975

The Assembly met at 1223 pm
Hon Leo T MeCarthy, Speaker of the Assembly, presiding
Chief Clerk James D Driscoll at the Desk
Assistant Clerk Ray Monday reading

## ROLL CALL

The roll was called, and the following answered to their names- 77 .

| Alatorre | Coller | Knos | Perino |
| :---: | :---: | :---: | :---: |
| Antonovich | Cracen | Innenster | Pliolo |
| Armett. | Cullen | Lanterman | Ralph |
| Badham | Davis | Lewis | Rolinson |
| Bane | Ledileh | Lockier | Rosenthai |
| Bannai | Dixon | Macbonald | Sterear |
| Berman | Duff | Marli) | Sueroty |
| Beveriy | Egeland | McAlintpe | Guitt |
| Boatwright | Fenton | Mrlannan | Thomna. Vincent |
| Briggs | Foran | MeVittie | Thomas, Willavi |
| Hrown | Gatamend: | Menale | Thumman |
| Surke | Greme | Miller | Toires |
| Calvo | Gualeo | Mohles | Viseoneellos |
| Camphell | Hait | Montova | Yeremeta |
| Carpenter | Has den | Mora | Watient |
| Chacon | Ingalls | Minjohy | Wiblern |
| Chappre | Kapuloft | Npatande | Wornam |
| Chei | Keene | Nimmo | Z'berg |
| Chimbole | Keysor | Papan | M1 Speaker |
| Cline |  |  |  |

Quorum present.

## PRAYER

The following prayer was offered by the Chaplam, Father Laeo McAllister .

Hearchly Father, As we begin each dry to examine issups and doseuss proposals, never let us be so distracted by the argumpit amil riforin as to forget that we are deallug with the lives ind linang patterm of human beings, those who have, and have not, but all possessing an indescribable diguity and destmy - AMEN.

## PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker MeCarthy, Mr Deddeh then led the Assembly in the pledge of allegrmee to the Flag

MOTION TO DISPENSE WITH READING OF THE JOURNAL
Further reading of the Journal of the previous legısiative day was dispensed with on motion of Mr. Deddeh, seconded by Mr Murphy

LEAVES OF ABSENCE FOR THE DAY
The following Members were granted leaves of absence for the day, because of illness.

Mr Goggin, on request of Speaker MeCarthy.
Mr. Tucker, on request of Speaker McCarthy.

## COMMUNICATIONS

Aswembly Chamber, Itune 21975
Mr Spenker Pursuant to sour matametions, the Chief ©'lerk hum exanumed. Assembla Bill No 1
And reports the same contectly engronsed
JAMES I) DRISC'OIJ, Chef Clerik
Above bill re-referred to committee.

## INTRODUCTION, FIRST READING, AND REFERENCE OF ASSEMBLY EILLS

The following bills were introduced, read the first time, and ordered held at Desk
Assembly Bill No. 24: By Assemblyman Dixon-An act to add Chapter 5 (commencing with Section 11900) to Part 3 of Division 2 of the Insurance Code, relating to medical malpractice, and making an sppropination therefor

Assembly Bill No. 25: By Assemblyman Hart and the Select Committee on Medueai Malpructice-An act to hdd Title 9A (commeneng with Section 1296) to P'art 3 of the Cole of ('wil l'iocecture, relating to medical hability clams, and making an appropuraton therefor
Assembly Bill No. 26: By Assemblyman Hart and the Select Commattee on Medical Malpructiee-An act to add Section 6677 to the Code of Civil Procedure, relatimg to judgments

Assembly Bill No. 27: By Assemblyman MeAlister and the Seleset Committee on Medieal Malpiactice- An act to amend Seriom $3 \times 33$ of, and to add Artule $\overline{3}$ (rommening with Septom pisbl) to (hapter 2 of Title 2 of ['art 1 of Division 4 of, the Civil Corle, relating to damages for persomal imjuries

Assembly Bill No. 28: By Assemblymen Maddyr, Egeland. Antonovich. Berman, and Hart-An act to add and tepreal sortion 11.887 to the Insurance Code, relating to malpractue usurance, and deelaring the urgency thereof, to take effect mmodiately.

Assembly Bull No. 29 : By Assemblyman Robuson-An aet to add Section 60765 to the Busmess and Professions C'ode, relating to the practue of haw.

## RECESS

At 1224 p.m, Speaker MrCarthy declared the Assembly reeessed.
REASSEMBLED
At 301 pm , the Assembly recomvened
Hon Leo T MeCarthy, Speaker of the Assembly, presiding
REFERENCE OF EILLS TO COMMITTEE
Pursuant to the Assembly Rules, the following bills were referred
to comnittee:
Asscmbly
Bill No
Commitee
24 .-....-.-.-.-.-.-. - Judiciary


27.-.-.--------------Juduciary


AUTHOR'S AMENDMENTS
Committee on Judictary
Awembla Chamber Jine 2, 1975

Awrombly Bill No 1
 Commatier' om Indusas:

MIIISER Charman
Assembly Bill No. 1-An act to amend Sectioms 125.5, 2100, 2101, 2361, 2362, 2364, 23725 , 2436, and 24.5t of, to add Sertions 21005 , $21006,21007,21008,21015,21016,2122,2572$, and 23721 to, to add Article 11 (rommencing with Sertion sifo) to (hapter I of Division 2 of, to add Article 23 (eommenemg with Siretom 21e3) and Article 24 (rommencmg with Sertion 2124 in) to ('hapter 5 of Divition 2 of, to repeal Section 2372 of, to repeal Article 11 (commenemg with Section 800) ot Chapter $]$ of Dunsum 2 of, and to repeal Artiole 23 (commencentr with Sietion 212\%) of (haptat 3 of Dismon 2 of, the Business and Profenmons Cowle, to hamend Sectiom 340 I of, the Code of
 to the Health and Safets Code, and to add Section llast to the Insurance Code, relating to healtl, and making an appropintion therefor

Bill read second time

## Consideration of Author's Amendments

The following inthor's amemiments, puramit to the Assembly Rulcs, uere read, and atopted-

## Amendment 1

 May 30, 1975, atnlse out "and Thurman'", and msert "Thurman, McLemman, and Yermo"

## Amendment 2

On page 13, line 16 , after "phad", msert "duing the 18 months mmediately precedng the mjury".

## Amendment 3

On parge 22 , line 28 , after " 21220 ", insert " (a)",

## Amendment 4

On page 22, between lines 34 and 35 , insert
"(b) Within 10 days after a decision that a person who bolds a heense, certificate or other similar authority from an agency mentioned in Section 800(a) (except a person hicensed pursuant to Chapter 3 (commencing with Section 1200) of Division 2) is lable for any death or personal injury caused by his neghgence, error or omission in practice, or has rendering unauthorized professional services, the commission shall report the same to that agency which issued the license, certuficate or other similar authority, provided that, where the commission finds that it does not relate to the defendent's professional competence or integrity, it may, by order, dispense with the requirement that the report be sent "

## Amendment 5

On page 26 , strike out lines 17 and 18 , and in line 19 , strike out "final judgment", and insert
" 803 Within 10 days after a judgment by a court of this state".

## Amendment 6

On page 26, lme 27, strike out "final"

## Amendment 7

On page 28 , strike out lines 30 to 40 , melusive, and on page 29 , strike out lines 1 to 32 , inclusive, und 'insert " defendant charged with a crime that relates to the defendant's professionsl competence or integrity, the judge who heard the matter shall transmat a transernpt of the proceedings to such agency Where the agency finds, after rewewing the transcript, that there is a substantial question as to the professional competence or integrity of the defendant, it shall commence appropriate disciplinhry action within 30 days "
Bill ordered reprinted, and to be re-referred to the Committee on Judecary.

## ADJOURNMENT

At 3.15 pm , Speaker MeCarthy declared the Assembly adjourned until 9 a m . Tuesday, June 3, 1975.
LEO T. McCARTHY, Speaker
ANABEL FLEURY, Manute Clerk

## CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAlLY JOURNAL

## TENTH LEGISLATIVE DAY <br> SIXTEENTH CALENDAR DAY

## IN ASSEMBLY

Assembly Chamber, Sacramento
Tuesday, June 3. 1975
The Assembly met at 1028 a m.
Hon Louis J Papan, Speaker pro Tempore of the Assembly, presiding

Chief Clerk James D Driseoll at the Desk.
Assistant Clerk Ray Monday readmg
ROLL CALL
The roll was called, and the following answered to them names- 76

| Antonowich | Coltier | Knox | Permos |
| :---: | :---: | :---: | :---: |
| Arnett | Ciater | Lumenstel | Pinolo |
| Batham | Cullin | Ianteiman | Raiph |
| Bane | Datis | Lews | Ruhamem |
| Hamua | Jeddeh | Jachar | IRoventhal |
| Berman | Hunon | Macthomild | Starlor |
| Heserls | Duff? | Matha | Sirwoty |
| Honturight | Fenton | Mcilinter | Sintt |
| Brigis | Forin | Metaman | Thomma, Vincent |
| Hrown | ( arammonds $^{\text {a }}$ | Mchitte | '1hamas, Willam |
| Burke | (tomgin | Matab | Thiommat |
| Cnito | Greplic | Millar | Tolsen |
| Camphell | Giluleo | Molims | Viveronerlor |
| Curpenter | Hart | Memtinn | Vlumim |
| (lakton | Hasden | Mon: | V'ancen |
| Chaprye | Insalis | Muphay | Wham |
| Cbel | Kigulsf | Namande | Wоиmm |
| Chumhote | Krent | Nıиво | $Z$ hets |
| Clume | Kescor | L'uthen | M1 Sumaker |

## REGULAR BUSINESS DISPENSED WITH

By unanimous consent, the regular order of bunmess of the Assembly was dispensed with for tha legrslative day.

## leaves of absence for the day

The following Member was granted leave of absence for the day, because of illness.

Mr. Tucker, on request of Speaker pro Tempore Papan
The following Member was granted leave of absence for the day, on legislative business, and desired to wave her per difm:

Mrs. Egeland, on request of Speaker pro Tempore Papan
The following Member was granted leave of absence for the day, on personal business, and desired to waive his per diem

Mr. Alatorre, on request of Speaker pro Tempore Papan

## COMMUNICATIONS

Assemblu Chsmber, Tune B. 1775
Mr Speakei Pursunnt to your instructions. the Chief Clenk has eanmmed Arsembls Bill No 1
And reports the same correctly engrossed
JAMES D DKISCOILI, Chef Clerk
Above bill re-referred to committee.
RECESS
At 10.29 a.m., Speaker pro Tempore Papan declared the Assembls recessed

## REASSEMBLED

At $2: 47 \mathrm{p} \mathrm{m}$, the Assembly reconvened
Hon Louis J. Papan, Speaker pro Tempore of the Assembly, presiding.

## ADJOURNMENT

At 2:48 pm, Speaker pro Tempore Papan declared the Assembly adjourned untıl 9 am , Wednesday, June 4, 1975

LEO T. McCARTHY, Speaker
ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAlLY JOURNAL <br> eleventh legislative day seventeenth calendar day

## IN ASSEMBLY

Assembly Chamber, Sacramento
The Assembly met at 10,15 a m
Hon Louss J Papan, Speaker pro Tempore of the Assembly,
presiding
Chief Clerk James D Driscoll at the Desk.
Assistant Clerk Ray Monday readmg

ROLL CALL
The roll was called, and the following answered to them names-75:

| Alatorre | Clime | Kevor | Prpan |
| :---: | :---: | :---: | :---: |
| Antonotich | Colluer | Kıro | Perino |
| Arnett | ('1av Pn | Lanearter | Piolo |
| Badham | Cullen | Ianterman | Rnlph |
| Bane | I) | Jevis | Rosenthal |
| Bannal | 1 berlduin | Jochior | Siegler |
| Berman | Divon | Miclmmald | Sicrots |
| Bererly | I)utib | Miadik | Sutt |
| Boatwright | Feuton | Mralinter | 'Ihomin, Vincent |
| Ariggs | Fotan | Metuman | Thomar, W'illinm |
| Brown | Gatamendi | MeVittie | Tharman |
| Burke | (iogeran | Nenale | Tholes |
| Calvo | Gircene | Siller | Vicencia |
| Camphell | Giunlen | Molbles | Warsen |
| Carpenter | Hart | Montorn | Wilsen |
| Chacon | Hiprlen | Mott | Wurnim |
| Chappie | Installs | Miurphy | Z'brrg |
| Chel | Kiupiloff | Nestande | Mr. Stpuker |
| Chimbole | Keene | Nimmo |  |

Quorum present.
REGULAR BUSINESS DISPENSED WITH
By unanmous consent, the regular order of busmens of the Assembly was dispeused with for this legislative day.

## LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr. Tucker, on request of Speaker pro Tempore Papan.
The following Member was granted leave of absence for the day, on legislative busmess, and desired to waive her per diem

Mrs Egeland, on request of Speaker pro Tempore Papan.
The following Members were granted leaves of absence for the day, on personal business, and desired to wave their per diem

Mr. Robinson, on request of Speaker pro Tempore Papan
Mr Vaseoncellos, on request of Speaker pro Tempore Papan

## AUTHOR'S AMENDMENTS

Committee on Judiciary
Assembly Chamher, June 4, 1975
Mr. Speaker: The Chanman of your Commitee on Judichary repoits
Aasembly Bill No 22
Assembly Bill No 23
With author's amendnients with the recommendation Amend, and re-refer to the Committes on Judiciary

MILLIER. Chnuman

Assembly Bill No. 22-An act to add Sections 805 and 21913 to the Business and Professions Code, to add Section 33331 to, and to add Part 6 (commencing with Section 6000) to Division 4 of, the Civil Code, to repeal and add Section 3405 of the Code of Civil Procedure and to add Section 18587 to the Insurance Code, relating to medical malpractice.

Bill read second time.

## Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

## Amendment 1

In line 1 of the title of the printed bill, after the first 'to", insert "amend Section 2361 of, and to".

## Amendment 2

In line 1 of the tutle, after the second "to', insert a comma

## Amendment 3

On page 4 , between lines 24 and 25 , mesert
"SEC 2.5. Section $2: 361$ of the Business and Professions Code is amended to read

2361 The board shall take action agamst any holder of a certificate, who 2 gulty of unprofensiond conduct whech hes beren brought to its attention, or whose certificate has been procured by fraud or misrepresentation or issued by mastake.

Unprofessional conduct includes, but is not limited to. the following
(a) Violuting or attempting to volate, directly or indirectly, or assisting in or abettmg the volation of, or conspiring to volate. any provision or term of this chapter
(b) Gran negligenee Negligence.
(c) Incompetence
(d) Gross immorality.
(e) The commission of any act involving moral turpitude dishonesty, or corruption, whether the act is committed in the course of the individual's activities as a certificate holder, or otherwise, or whether the act is a felony or a misdemeanor.
(f) Any action or conduct which would have warranted the denial of the certificate."

## Amendment 4

On page 10 , line 17 , after "licensee," insert "which visit relates to the uct, omission, or falure complaned of,".

## Amendment 5

On page 10 , strike out lines 18 to 22 , inclussve, and insert
"This period of limitations shall be tolled for any period during which such heensee has falled through fraud or concealment to disclose any such act, omasson. or failure complanned of and upon whech such action is based "

Bill ordered reprinted, and to be re-reterred to the Committee on Judiciary

Assembly Bill No. 23-An act to add Chapter 12 (commeneing with Section 4950) to Divsion 2 of the Busmess and Professions Code, relating to meducal malpractice reports, making an appropriation therefor, and declarmg the irgency thereof, to take effect immediately

Bill read second time

## Conaideration of Author'a Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted.

## Amendment 1

In line 3 of the title of the printed bill, strike out ", making an appropriation'; strike out hines 4 and $\overline{5}$ of the title, and msert a period

Amendmant 2
On page 7, strike out lines 34 to 40 , moluswe, strike out page 8 , and insert
"SEC 2 No appropriation is made by this act, nor is any obligation ereated theieby under Section 2231 of the Revemue and Taxation Code, for the rembusement of any los al arency for any costs that may be uwured by it in earryng on any mogram of performintr any service requred to be enried on or peiformed by it by this act"

Bill ordered reprinted, and to be re-referred to the Committee on Judictary

## INTRODUCTION, FIRST READING, AND REFERENCE <br> OF ASSEMBLY BILLS

The following bills were introduced, read the first time, and ordered held at the Desk.

Assembly Bill No. 30: By Assemblyman Z'berg-An act to add Chapter 5 (commenemg with Section 11890) to Part 3 of Division 2 of the Insurance Code, relating to medıcal malpractice insurance.

Assembly Bill No. 31: By Assemblymen Kapiloff and Alatorre-An act to amend Sections $16285,1747,1765,1807,2507.2936$ 29965, 3024 , and 3166 of, to add Chapter 17 (commencing with Section 910) to Division 2, Section 23605 und Division 25 (commencins with Section 4910) to, and to repeal Article 4 (commencing with Section 1670) and Article 45 (commeneng with Section 1690) of Chipter 4 of Division 2, Artiele 4 (commencing with Section 2960) of ('hapter 66 of Division 2, Section 3025 6, and Article 5 (commencing with Section 3090) of Chapter 7 of Division 2 of, the Business and Professions Code, to add Division 22 (commeneing with Section 30000) to the Health and Safety Code, to add Chapter 205 (commencmg with Section 17061 10) to Part 10 of Division 2 of the Revenue and Taxation Code, to amend Section 2 of Chapter 48 of the Statutes of 1962 of the First Extraordinary Session of the Leginlature and to repeal Section 5 of Chapter 1318 of the Statutes of 1962 of the First Extraordinary Session of the Legislature, relating to health eare, making an appropriation therefor, to take effect mmedutely, tax levy

Assembly Bill No. 32: By Assemblyman McVittie and the Select Committee on Medical Malpractice (Assemblyman Berman, Chaurman), and Assemblymen Chel, Keene, Boaturight, and WornumAn act to add Chapter 105 (eommenemg with Section 4600) to Division 2 of the Business and Professions Code, relatimg to malpractice claims

## REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bill was referred to committee.

| Assembly |  |
| :---: | :---: |
| Bull No. | Committee |
| 30 | Finance, Insurance, and Comme |
|  | EECESS |

At 10.16 a.m, Speaker pro Tempore Papan declared the Assembly recessed.

REASSEMBLED
At $2.47 \mathrm{p} . \mathrm{m}$, the Assembly reconvened
Hon Lous J Papan, Speaker pro Tempore of the Assembly, presiding.

## ADJOURNMENT

At 2.49 pm , Speaker pro Tempore Papan declared the Assembly adjourned until 1 pm, Thursday, June 5, 1975.

LEO T. McCARTHY, Speaker
ANABEL FLEURY, Minute Clerk

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## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

# ASSEMBIY DAIIY JOURNAL 

## TWELFTH LEGISLATIVE DAY EIGHTEENTH CALENDAR DAY

IN ABSEMBLY

Assembly Chamber, Sacramento Thursday, June 5, 1975
The Assembly met at $5: 18 \mathrm{pm}$.
Hon Leo T McCarthy, Speaker of the Assembly, presiding Chief Clerk James D Driscoll at the Desk.
Assistant Clerk Ray Monday reading.
ROLL CALL
$\therefore 1$
The roll was called, and the following answered to their names- 77 .

| Alatorre | Craven | Innox | Perno |
| :---: | :---: | :---: | :---: |
| Antonovich | Cullen | Lancaster | Priolo |
| Arnett | Davis | Lanterman | Rriph |
| Badham | Deddeh | Lewis | Robinson |
| Bane | Dixon | Luckyer | Rosenthal |
| Bannai | Duffy | MacDonald | Siegler |
| Bermnn | Preland | Madely | Sieroty |
| Beverly | Fentor | McAljster | Sutt |
| Boatwright | Foran | Melannan | Thomas, Vincent |
| Brown | Garamendi | MicVittie | Thomas, William |
| Burke | Gogern | Minde | Thurman |
| Calvo | Greene | Miller | Torres * |
| Campbell | Gualco | Mohley | Vasconcellos |
| Carpenter | Hart | Montosa | Viceneia |
| Chacon | Hay den | Mori | Warren |
| Chample | Ingalls | Murphy | Wilson |
| Chel | Kapiloff | Nestande | Wornum |
| Chimhole | Keqne | Nimmo | Z'berg |
| Cline | Keysor | Papan | Mr. Speaker |
| Collier |  |  |  |

Quorum present.

## prayer

Upon invitation of Speaker McCarthy, the following prayer was offered by the Honorable Larry Chimbole, Member of the Assembly, 34th District :

Dear Father, We give You thanks for this new day . . for the new horizons; for the opportunity to deal with the future of our great state Help us to forget the failures and the frustrations of yesterday . . . help us to forgive the sins and weaknesses of our fellow men and women and make it easier for us to recognize that we, too, are guilty of those same woaknesses and sins

Give us the strength to serve our people in a manner that is just in their eyes as well as in Yours . . .give us the vision and the wisdom to make the right decisions and help us to do it with the grace that only a generous heart can inspire.-AMEN.
plegge of allegiance to the flag
Upon request of Speaker McCarthy, Mr Priolo then led the Assembly in the pledge of allegiance to the Flag

MOTION TO DISPENSE WITH READING OF THE JOURNAL
Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Hart, seconded by Mr. Priolo

## LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr. Tucker, on request of Speaker MeCarthy.
The following Member was granted leave of absence for the day, on personal business, and desired to waive his per diem :

Mr. Briggs, on request of Speaker MeCarthy.

## ANNOUNCEMENTS

Speaker pro Tempore Papan was granted unanimous consent that the following committees be permitted to hold special hearings:

Judiciary on Tuesday, June 10, in Room 2117 at $1: 30 \mathrm{pm}$ to hear Assembly Bill's Nos. 7, 9, 14, 15, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, and 29 .

Finance, Insurance, and Commerce on Wednesday, June 11, at 1:30 p.m. in Room 4202 to hear Assembly Bill's Nos 11 and 28 and any holdovers from their meeting on Monday, June 9

Joint meeting of Judiciary and Health Committees Thursday, June 5, at 7:30 p m. in Room 4202 to hear Assembly Bill No. 1.

## COMMUNICATIONS

Assembly Chnmher, June 5, 1975
Mr Speaker - Purmant to sour ingtructiona, the (hief Clerk has examined
Assembly Bill No 22
Assembly Bill No 23
And reports the same correctly engrossed
JAMES D DRISCOIL, Chief Clers
Above bills re-referred to committee.

## REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bills were referred to committee.
Assembly
Bill No
Comrittce


AUTHOR'S AMENDMENTS
Committee on Judiciary
Assembly Chamber, June 5, 1975
Mr Spenker The Chairman of aour Committee on Judiciars reponts
Ausemily Bill No 18
With anthos' 4 amendments with the lecommendation. Amend, and re-refer to the Commattee an Judicinra.

MILISHR, Chnirman
Assembly Bill No. 18 - An act to add Chapter 5 (commeneng with Section 364) to Title 2 of Part 2 of the Code of Civil Procedure, relating to the commencement of civil actions.

Bill read second time

## Consideration of Author's Amendmente

The following duthor's amendments, pursuant to the Assembly Rules, were read, and adopted:

## Amendment 1

On page 2, lines 9 and 10 of the printed bill, strike out "holding a physician's and surgeon's certificate". and msert "licensed under D1vision 2 (commencing with Section 500) of the Busmess and Professtons Code or against a clmic, facilty, or agency licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code'.

## Amendment 2

On page 2, line 11, after "person", insert ", clinic, facility, or agency".

## Amendment 3

On page 2, lme 14, after "person", insert ", elinic, facility, or agency'.

## Amendment 4

On page 2, line 22 , strike out " 60 ", and insert " 90 ".
Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

## INTRODUCTION, FIRST READING, AND REFERENCE OF ASSEMBLY BILLS

The following bill was introduced, read the first time, and ordered held at the Desk:

Assembly Bill No. 33: By Asscmblyman Boatwright and the Select Committec on Medical Malpractice- An act to add Article 8.5 (commeneing with Section 6146) to Chapter 4 of Division 3 of the Business and Professions Code, relating to contingency fees.

## REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bill was referred to committee:
Assenibly Bill No.

Committee
83 Judiciary
JOINT RULE 62(a) WAIVED
Mr. Montoya was granted unanimous consent that Joint Rule 62(a) be waived for the purpose of setting Assembly Bill No 11 for hearing in the Committee on Finance, Insurince, and Commeree on Mondry, June 9, 1975.

## ADJOURNMENT

At 5:20 p.m, Speaker Me('arthy dechared the Assembly adjourned until 11 a.m., Friday, June 6, 1975

LEOT, MOCARTHY;Speaker
ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBIY DAIIY JOURNAL

## THIRTEENTH LEGISLATIVE DAY NINETEENTH OALENDAR DAY

## IN A8SEMBLY

Assembly Chamber, Sacramento
Friday, June 6, 1975
The Assembly met at 3.23 pm .
Hon. Leo T MeCarthy, Speaker of the Assembly, presiding Chief Clerk James D Driscoll at the Desk.
Assistant Clerk Ray Monday reading.
ROLL CALL
The roll was called, and the following answered to their names-78:

| Alatorre | Collier |
| :---: | :---: |
| Antonos ch | Craven |
| Arnett | Cullen |
| Badham | Inavs |
| Bane | Dedileh |
| Bannal | Dixon |
| Berman | Duff |
| Beverly | Eselind |
| Boatwright | Fentun |
| Brimgs | Foran |
| Brown | Gainmend |
| Burke | Goggin |
| Calvo | Greene |
| Camplell | Gunlco |
| Carpenter | Hatt |
| Chacon | Hayden |
| Chappre | Ingalla |
| Chel | Kapiloff |
| Chiminole | Kerne |
| Cline | Key sor |


| Knox |
| :---: |
| Lancaster |
| Lasterman |
| Lewis |
| Luckjer |
| Macbonald |
| Maddy |
| Medinter |
| MeLennan |
| Mevitie |
| Meade |
| Miller |
| Mubley |
| Montoya |
| Mort |
| Murphy |
| Nestande |
| Nimmo |
| Papan |

Perino
Priolo
Ralph
Robinson
Rosenthal
Siegler
Sleroty
Surtt
Thomar, Vincent
Thomas, Willuam
Thurman
Torres
Vasconcellob
Ficencia
Warren
Wilkon
Wornum
Zherg
Mr. Speaker
Quorum present.

## PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

God, Please show us that the impossible is possible, that we, however old and great we may be, can become little and born again.

Show us that we can become open and understanding. that we, too, can heal and bind up.

Show us that fears can be allayed and that there can be peace on earth and in our hearts Shou us that justice can be done, hunger appeased, bread broken and joy shared among men and women

This is what Your prophets have foretold llasten the time and establish Your future.-AMEN

## pledge of allegiance to the flag

Upon request of Spenker Mr.Carthy. Mr Chimbole then led the Assembly in the pledge of allegiance to the Fhag.

## READING OF THE JOURNAL DISPENSED WITH

By unanimous consent, reading of the Journal of the prevous legis. lative day was dispensed with.

## LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr. Tueker, on request of Speaker McCarthy.

## communications

A uspmbly Chamber, June 6. 1975
Mr Apenker : Purmuant to ? our instructinuk, the C'bief ('lerk han examined
Ascembly Bill No 1א
And reports the name correctly engrowsed
JAMEA IN 1ORISCOI.I, ('hief Clerk
Above bill re-referred to committpe.

## SPECIAL COMMITTEE MEETINGS

Speaker McCarthy was granted unammous consent that the Judiciary Committee be permitted to hold a special meetug on Jume 13 at 8 thm. to hear any holdover bills from the Tuesda!, Juse 10, and Thursday, June 12, meetings

## RECESS

At 3:24 p.m., Speaker McC'arthy declared the Assembly recessed
REASSEMBLED
At 3:31 p.m., the Assmbly reconvened
Hon. Leo T. McCurthy, Speaker of the Assembly, presiding
AUTHOR'S AMENDMENTS
Committee on Judieiary
Aspemhis Chamher. June 6 197.)
Mr. Speaker: The Chalrman of sonr Conamites on Juluthry rejurts
Absemhly Bill No 1
With author's smendments $n$ ith the recommendition Amend, nud re-refet to the Committee on Judiciars.

Assembly Bill No. 1-An act to mmend Sections 125 5, 2100, 2101, 2361, 2362, 2364, 2372 5, 2436, and 2454 of, to add Sections 2100.5, $21006,21007,2100.8,2101.5,21016,2122.2372$, and 23721 to, to add Article 11 (rommencming with Section 800) to Chapter 1 of Division 2 of, to add Article 23 (commencing with Section 2193) and Article 2.4 (commencing with Section 21245) to Chapter 5 of Division 2 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Clapter 1 of Diwising 2 of, and to repeal Artucle 23 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code; to amend Section 340.5 of, the Code of Civil Procedure, to add Division 17 (enmmencing with Sertion 21005) to the Health and Safety Code; and to add Section 11587 to the Insurance Code, relating to health, and making an appropriation therefor.

Bill read second time.

## Consideration of Author's Amendmanta

The following duthor's amendments, pursuant to the Assembly Rules, were read, and adopted:

## Amandmant 1

In line j of the heading of the printed bill, as amended in Assembly June 2, 1975, strike out "Miller,". •

Amendment 2
In line 7 of the title, hfter the first comme, insert "to add Article 85 (commencing with Section filt6) to Chapter 4 of Division 3 of,".

## Amendment 3

In line 10 of the title, after the semicolon, insert "to add Section 33331 to the C'wil Code;'.

## Amandment 4

In line 11 of the title, after "of", insert ", and to add Section 667.7 to,".

## Amendment 5

In line 11 of the title, strike out "to add"; strike out line 12 of the title, and in line 13 of the title. strike out "and Safety Code;".

## Amandmant 6

In line 13 of the title, itrike out "Section 11587", and insert "Sections 11.87 and 11.88".

## Amondmant 7

On page $\overline{5}$, strike out lime 1 , and insert
"SECTION 1 This ant whill be known and may be cited as the Meducal Injury ('ompmoticon Reform Act

SEC $1 . \overline{7}$ It in the matert of the Legelature that nothing in this act shall alter exsting laws with ruphert to the right of parties to enter into wolutary and bindmg arrements to arbitute disputes arising out of the provison of health care, as provided in Title 9 (commencmy with Section 1380) of l'art 3 of the ('ocld of ('ivil Procedure."

## Amendment 8

On mage $\mathrm{J}_{\text {, }}$, trike out lines $\underline{2}$ to 14 , indmive, strike out pages 6 to 22, melluve; and on prge es, strike out ham 1 to 7, inclusive.

## Amendment 9

On page 25, line 19, after "settlement", insert "or arbitration award ${ }^{\prime \prime}$.

## Amendment 10

On page 25, line 25, after "thereto", insert "or within 30 days after service of such arbitration award on the parties'.

Amendment 11
On page 25, line 35, after "settlement", insert "or arbitration award".

## Amandment 12

On page 26, line 6, after 'thereto', Insert "or 30 days after service of such arbitration award on the parties".

## Amendment 13

On page 26, line 13, after "agreement', insert "or service of such arbitration award on the parties".

## Amendment 14

On page 38, strike out lines 37 to 40 , inclusive; strike out page 29 ; and on page 30, strike out lines 1 to 12 , inclusive.

## Amendment 15

On page 41 , between lines 37 and 38 , insert
"SEC 242 Article 85 (commeneing with Section 6146) is added to Chapter 4 of Division 3 of the Business and Professions Code, to read:

## Article 85. Contingency Fee Agreements: Medical Injury Tort Claims

6146. (a) Except as provided in subdivision (b), an attorney shall not contract for or collect a contingency fee for representing any person seeking damages in connection with a medical injury tort claim in excess of the following limits:
(1) 40 percent of the first fifty thousand dollars ( $\$ 50,000$ ) recovered.
(2) $33 \pm$ percent of the next fifty thousand dollars ( $\$ 50,000$ ) recovered.
(3) 25 percent of the next one hundred thousand dollars ( $\$ 100,000$ ) recovered.
(4) 10 percent of any amount on which the recovery exceeds two hundred thousand dollars $(\$ 200,000)$.

Such limitations shall apply regardless of whether the recovery is by settlement, arbitration, or judgment, or whether the person for whom the recovery is made is a responsible adult, an infant, or a person of unsound mind.
(b) Where a plaintiff is awarded money damages in a medical injury tort action and such plaintiff's attorney provided or is providing legal services pursuant to a contingency fee agreement, the judge shall review in open court the provisions of such agreement with all parties, including the plaintiff individually, and all attorneys seeking benefits under the agreement; provided that neither the agreement nor any of its
terms shall be disclosed to the jury or in any way considered in determining the amount of damages to be awarded the plaintiff. The final judgment shall require the defendant to deduct from the award to the plaintiff the amount of the award which represents attorney's fees and to pay the fees directly to such attorney. The amount of any attorney's fee shall be determmed necording to the contingency fee apreement unless the court substitutes a different amount upon a specific finding that the amount agreed upon would be substantially inadequate or substantially excessive m view of the professional legal services actually rendered on behalf of the plainteff
(c) The Board of Governors of the State Bar of Colifornia shall report and make recommendation to the Legislature by July 1, 1976, on an equitable methorl for regulating compensation of defense counsel consistent with the polteres emborlied in this artucle regarding regulation of plamtif's attorner 's fees

SEC 245 Sectiom 33311 is added to the Civil Code, to read:
33331 Damages awarded to $n$ plaintiff in an action for personal injury agmast a pronder of health care services shall include and be limited to the followmy actual econome loss:
(1) The reasonable cost of necessary medical, surgical, and hospital treatment
(2) The reasonable cost of rebabilitation therapy.
(3) All reasonable expenses neressarils incurred in obtaining services in heu of those the peryon would have perforned for the benefit of himself or his family of he had not been injured.
(土) All reasonable expenses for hiring a substitute to perform selfemploynent services, in mityation of loss of meome, or for hiring special help necessary to enable the mjured person to work and mitipate loss of income.
(5) Loss of earnings, which shall be calculated by determining the probable meome for the period for whell tueh loss is incurred, redueed by an amount equal to any inemm which the injured person parns from subutitute work, any income wheh such person would have earned in avalable substatute work he was apable of performmg but unrensonably falled to undertake, and any income which such person would have earned by lurmg an avalable subatitute to perform self-employment sprvices but unrearomably failed to do.
(6) Attorney feen durectly related to clammy and proving liability: and damages
(7) Exeept as provided in thas paragrapl, all noneconomic lass, including pam, suffermg, meonvenience. phybieal inpanment, and other nonpecunary damage which would have becon recoverable under the law but for the ensetment of thes section up to a bmit of eight hundred dollars ( $\$ 8000$ ) per month However, sudh lmitation may be execeded in casen of extreothary hardshon, where noneronomic loss subytantially outweighs atual eromome low In no ease shall a patent be entitled to noncenome los where compurination for lost parnings exceeds one thousand five humitred dollam ( $\$ 1.500$ ) per month and, in no erent thath the combined noneronomue losses and lost wages exceed one thousnd five hundred dollars ( $\$ 1,500$ ) per month.
(b) Any damages awarded to a plaintiff in an action for personal injury against a provider of health care services shall be offset by any amount payable as a benefit to the plantiff as a result of the personal injury under the United States Soctal Security Act, any state or federal income disabilhty or workmen's compensation act, any accadent, health, sickness, or disabihty insurance, and any contract or agreement of any group, orgamzation, partnership, or corporation to provide or to pay for or reimburse the cost of medical, hospital, dental or other health care services. The amount which is offset from the judgment shall be reduced by (1) any amount which the plantiff has pand or contributed during the calendar year in which his right to benefits arose for any program, plan, or pohey under which benefits are payable and (2) if a program, plan, or policy was provided to the plantiff by his employer as an employee benefit, an amount equal to any reasonable cost which would have been meurred by the plaintiff during the calendar year in which his raght to benefits arose if he had personally paid for the program, plan, or policy."

Amendment 16
On page 42, between lines 15 and 16 , ansert
"SEC 26. Section 667.7 is added to the Code of Civil Procedure, to read:

6677 (a) In any action for personal injury or wrongful death against a provider of health care services, a superior court may, or at the request of ether party shall, enter a judgment ordering that money damages or its equivalent for future damages of the judgment creditor be pard in whole or in part by periodic payments rather thar by a lump sum payment In entering a judgment ordering the payment of future damages by periodic payments, the jury or the court, in the event the trial is without a jury, shall make a speeffic finding as to the dollar amount of periodic payments which will compensate the judgment creditor for such future damages
(b) The judgment ordering the payment of future damages by periodic payments shall specify the recipient or recipients of the payments, the dollar amount of the payments, the interval between pay.ments, and the number of payments or the pertod of tume over which payments shall be made The period of time may be measured by the occurrence of a contingency or contingencies such as the death of the judgment creditor.
(c) The judgment ordering the payment of future damages by periodic payments may also specify that the recipients, dollar amount, interval and number of payments or period of time over which payments are made shall be subject to modification or termination on the occurrence of a contingency or contmgencies specified in the judgment Such contingencies may include, but are not limited to, contingencies providing for the contunuation of periodic payments or Iump sum payments to the spouse, minor children, or other dependents of the judgment creditor ar the event of the death of the judgment creditor prior to some spectied date. Any future modification and the dollar amount of the periodie payments upon the occurrence of a specified
contingency or contingencies shall be specified in the judrment and shall be expressed in specifir dollar ammunts or in t fixed percentage of a specifie dollar amount so that the dollar amomet of the modified periodic payment is definte and certain at the time judgment is entered
(d) Following the orcumence or expiration of all rontingencies speeffied in the permodie payment judement, any obligation of the judgment debtor to make fur the payments shall i pase.
(e) As used in this sertion.
(1) "Future damages" includes, but is not limited to, damages for future medural treatnent, rare or "ustody, loss of future purnings, loss of bodily function, or future pan and suffering of the judgment creditor
(2) "Perioche payments" means the paymunt of money or delivery of other property to the judgrinent uredito at regular intervals.
(f) It is the intent of the Lepislature in enacting this section to tuthorize the entry of judgments in malpractive actions agamst health care providers whach provide for the payment of future damuges through periokla paympats rather thun lump sum payments. By authorizing periodic privment judgments, it is the further intent of the Leginlature that this courts will utiljze such judgments to provide compensection sufficunt to meet the needs of an mjured plamenff and those persons who are dependent on the plantaff for whatever period is neeesuary while elmanating the potental whadfall from a lump sums recovers wheh wan intended to provide for the care of an injured plaintiff ouer an extemded period who then dies shortly after the judgment is padd. leasing the balanee of the judrment award to persons and purpoues for wheh it wis not intended It is also the intent of the Legislature that all elements of the periolic pas ment proyram be specified with certamis in the judgment ordering bueh payments and that the judment not be vibject to modification at some future time which moght alter the specificatom of the origmal judgment"

## Amendment 17

On page 43 . between lunes 28 and 24 , insert
"GEC ${ }^{2} 75$ Siretion 11.58 is alded to the Insurance (ode, to read:
llise No mourer authorized to do busmess in this state and to pro-
 practice of mecheme or ovteopathy, hoalth plans, and to partnerships or corporations lawfulls cugared in the operation of hospitak, sunitedrums. dimen. or other health care farehties, wall refuse to issue or review msaralle to such persoms, partinemlaps or corporations, on the gromids that weh pervms partnerthins or corpotations have entered, or matend to pater, uto valad wratten dirrecments wath patents or prok-

 merohip om corponation and suld patents"

Ball ordered repronted, and to be rerpferred to the committee on Judichary

## ADJOURNMENT

At 520 pm , Speaker MeCarthy declared the Assembly adjourned untul 9 a m., Monday, June 9, 1975.

LEO T. McCARTHY, Speaker
ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSKON

# ASSEMBLY DAIIY JOURNAL 

# FOURTEENTH LEGISLATIVE DAY <br> TWENTY-SECOND CALENDAR DA广 

## In ABsGMBLY

Assembly Chamber, Sactamento Monday, June 9, 1975
The Assembly met at 1238 pm
Hon Leo T MrCanthy, Speaker of the Assembly, presiding
Chief Clerk James 1 Driscoll at the Desk.
Assistant Clerk Ray Monday readug.
, ROLL CALL
The roll was ralled, and following answered to their names-79:

| Alatorre | Collur | Kıox | Priolo |
| :---: | :---: | :---: | :---: |
| Antonus ich | Craven | Lameaxter | Ralju |
| Arnett | Culien | lanterman | Fohmmen |
| Bathntm | Dлия | 1evem | Rowenthal |
| Hane | I eidich | Larkjer | Simpler |
| Bamini | lixim | Maclhunnki | Sierots |
| lierman | Duff | Mindel) | Suit |
| Besers | Ligelonit | MeAbivter | Thomma, Yincent |
| Bontwright | Fenten | Melisunan | Thomax, Wilham |
| Mhagi | Foran | MeVitir | Thurman |
| lruwn | (iamamend | Mrumb | Torres |
| Burke | Gugem | Misher | Turker |
| Calua | Gruene | Mobles | Vameuncellos |
| Camphell | Gutalco | Muntona | Ticuricta |
| Carjenter | Hart | Morı | Warren |
| ('hacom | Hasden | Murphs | Wulan |
| Clsappie | Ingulis | Nentamite | Wirnum |
| ( $\mathrm{hr}^{\text {d }}$ | Kapioft | Nimino | Z'luery |
| Cbimiole | Krene | Papaa | Nr Speaker |
| Chase | Kelmat | Perma |  |

Quorum present.

## PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister

Fathor. Ilelp in to weldome each day as if it wete gun first, no that we may linse enthishat in our souls, excitement in our hearts and warmith un oul dippontimis

Help us to welcome pach day as if it were our last, so that we may have un urgenty mour efforts, a deep concern for the sorld in our minds and the peare and love of God in our liearts.-AMEN.

## pledge of allegiance to the flag

Upon request of Speaker McCarthy, Mr Hayden then led the Assembly in the pledge of allegiance to the Flag

MOTION TO DISPENSE WITH READING OF THE JOURNAL
Further reading of the Journal of the previous legisiative day was dispensed with on motion of Mr. Beverly, seconded by Mr Miller.

## COMMUNICATIONS

Askembly Chamber, June 6. 1975
Mr Speaker . Purguant to your instructions. the Chief Clerk has evammen Assembly Bill No, 1
And reports the asime corieetly englosserl
TAMES D. DRISCOILL, Chief Clerk
Above bill re-referred to committee

# AUTHOR'S AMENDMENTS <br> Committee on Judiciary 

Arsembly C'hamber, June 0. 1975
Mr. Speaker The Charman of your Commuttee on Judietary report
Assembly Bill No 14
Assembly Bull No. 21
With author's amendments with the recommendation Amend, and re-refet to the Committee on Judieıary.

MILLEER, Chairman
Assembly Bill No. 14 -An act to add Article 12 (commencing with Section 825) to Chapter 1 of Division 2 of the Busmess and Professions Code, relating to malpractice actions.

Bill read second time.

## Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules. were read, and adopted:

## Amendment 1

On page 2, lines 3 and 4, of the printed bill, strike out "' one thousand six hundred sixty-seven dollars ( $\$ 1,667$ )", and insert "five thousand dollars ( $\$ 5,000$ ) '

## Amendment 2

On page 2, line 9, after "division', insert a comma.

## Amendment 3

On page 2, line 10, after "division," insert "or against a hospital as defined in subdivisions (a) and (b) of Section 1250 of the Health and Safety Code,"'

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary

Assembly Bill No. 21-An act to add Section 3333.1 to the Civil Code, relating to damages.

- Bill read second time.


## Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted.

## Amendment 1

On page 1 of the printed bill, strike out lines 1 to 4 , inclusive; on page 2, strike out lines 1 to 12 , melusive; and in line 13 , strike out "(b)", and insert
"SECTION 1 Section 33331 is added to the Civil Code, to read: 3333 1. (a)".

## Amendment 2

On page 2, strike out lines 33 to 35 , inclusive, and Insert
"(b) The plaintiff's right to direct benefits from collateral sources of indemnity and the amount of the direct benefits payable by such collateral sources of indemnity shall be admissible in evidence in any aetion for personal injury against a provider of health care services acting as such a provider
(c) Collateral sourees of indemnity shall include, but not be limited to, any benefit payable by"

Bill ordered reprinted, and to be re-referred to the Committee on Juduciary.

## RECESS

At 12.39 p.m , Speaker MeCarthy declared the Assembly recessed
REASSEMBLED
At 247 pm , the Assembly reconvened
Hon Leo T. MeCarthy, Speaker of the Assembly, presiding.

## ADJOURNMENT

At 248 pm , Speaker Mec'arthy declared the Assembly adjourned untul 9 a m, Tuesday, June 10, 1975.

LEO T MeCARTHY, Speaker
ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAlLY JOURNAL

# FIFTEENTH LEGIBLATIVE DAY <br> TWENTY.THIRD CALENDAR DAY 

## IM ASSEMBLY

Assembly Chamber, Sacramento Tuesday, June 10, 1975
The Assembly met at 10.10 a m.
Hon Robert P. Nımmo, Member of the Assembly, 29th District, presiding.

Chief Clerk James D. Driscoll at the Desk.
Assistant Clerk Ray Monday reading.
ROLL CALL
The roll was called, and the following answered to their names-74.

| Alatorre | Collıer | Knox | Papan |
| :---: | :---: | :---: | :---: |
| Antonovich | Craven | Lancaster | Perino |
| Arnett | Cullex | Lanterman | Priolo |
| Badham | Davis | Lewis | Ralyh |
| Bane | Deddeh | Lockjer | Rosenthal |
| Bannal | Dixon | MacDonald | Stegler |
| Berman | Duffy | Mraddy | Sieroty |
| Beverly | Figeland | MeAlister | Sutt |
| Bontwright | Fenton | McLeman | Thomas, Vincent |
| Brown | Foran | McVittie | Thomav, William |
| Burke | Gaiamendi | Meade | Thurman |
| Calvo | Gogeru | Miller | Vauenncellos |
| Campbell | Greene | Mobley | Vicencia |
| Carpenter | Gualco | Montoya | Warren |
| Cbreon | Hart | Mori | Wilson |
| Chapple | Hayden | Mitrphy | Wornmm |
| Chel | Kapuloff | Nestande | Z'berg |
| Chimbole | Keene | Nimmo | Mr Speaker |
| Cline | Keysor |  |  |

Quorum present.
REGULAR BUSINESS DISPENSED WITH
By unanimous consent. the regular order of business of the Assembly was dispensed with for this legislative day.

## LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness:

Mr. Briggs, on request of Acting Speaker Nimmo
Mr. Ingalls, on request of Acting Speaker Nimmo.
Mr. Tucker, on request of Acting Speaker Nimmo.
The following Members were granted leaves of absence for the day, on personal business, and desired to waive their per diem ;

Mr. Robinson, on request of Acting Speaker Nimmo.
Mr. Torres, on request of Acting Speaker Nimmo.

## COMMUNICATIONS

Assembly Chamber, June 10, 1975
Mr. Speaker-Pursuant to your instructions, the Chief Clerk has examined.
Assembly Bill No. 14
Assembly Blll No 21
And seports the same correctly engrossed.
JAMES D. DRISCOLI, Chief Clerk
Above bills re-referred to committee.

## WITHDRAWAL AND RE-REFERENCE OF BILLS

Acting Speaker Nımmo was granted unanimous consent that Assembly Bill No 11 be withdrawn from the Committee on Finance, Insurance, and Commerce, and re-referred to the Committee on Judiciary.

## Joint Rule 62(a) Waived

Acting Speaker Nimmo was granted unanimous consent that Joint Rule 62(a) be waived for the purpose of settuig Assembly Bill No 11 for hearing in the Committee on Juduciary on June 12, 1955 at 800 a.m.

## REPORTS OF STANDING COMMITTEES <br> Committee on Finance, Insurance, and Commerce

Assembly Chamber, June 10, 1975
Mr. Speaker Your Committee on Finanee, Insurance, and Commerce reports. Assembly Bull No 10
With amendments with the recommendation: Amend, do pasa, ns amended, and be re-referred to the Committee on Ways and Means.

McAlister, Charman
Above bill ordered to second reading.

## AUTHOR'S AMENDMENTS

Committee on Judiciary
A sembly Chnniher, June 10, 1975
Mr Speaker The Chirman of your Committee on Judiciars reports
Assembly Bill Xio 11
Assembly Bill No 14
With author's amendments with the recommendation dmend, nul re-refer to the Committee on Tudiciary.

MIIS.ER. Charman
Assembly Bill No. 11-An act to amend Sections 11770, 11773, 11774, 11777, 11778, and 1179 of, to ddd Part 7 (commenemg with Section 12700) to Division 2 of, and to add Dinsion +6 (commenemg with Section 14000) to, the Insurance Code, and miking an appropiation therefor.

Bill read second time.

## Consideration of Author's Amendmante

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

## Amendment 1

In line 4 of the title of the printed bill, after the second comma, insert "relating to medical malpractice insurance,"

## Amendment 2

On page 10, strike out line 18 , and insert ", health care institution, or any any other health care provider, other than the injury or'".

Amendment 3
On page 10, strike out lines 26 to 29 , inclusive; and in line 30 , strike out ' 14002 ", and insert
'14001".
Amendment 4
On page 11, line 7, strike out the second 'or'.
Amendment 5
On page 11, line 25, after ' in'", insert ' $a$ '".

## Amendment ${ }^{\text {t }}$

On page 11, lmes 31 and 32 , strike out "of the deceased patient".
Amendment 7
On page 11, line 37, after "physicians". insert "and surgeons".
Amendment 8
On page 12, strike out lines 5 and 6 , and insert
"(1) A bealth care facility authorized by law."
Amendment 9
On page 12, line 33, after 'pursuant', insert "to".
Amendment 10
On page 13, line 12, strike out "by the presiding", strike out hne 13 ; and in line 14, strike out "injury".

Amendment 11
On page 14, line 18, strike out the second "the'", and insert "this".
Amendment 12
On page 18, strike out lines 15 to 17 , inclusive.
Amendment 13
On page 19, lme 33, strike out "This seetion', and strike out line 34
Amendment 14
On page 20, line 3, after "panel', msert "or upon final settlement".
Amendment 15
On page 20, strike out lines 5 to 7 , melusive, and insert "credited to the msurer."

## Amendment 18

On page 21 , line 23 , after the period, insert "Any request for a rehearing shall be made within 30 days after the date of the decision of the hearmg panel under Section 14210 "

## Amendment 17

On page 21, line 27, strike out "made", and insert "computed".
Amendmant 18
On page 21, between lines 37 and 38 , insert
" (8) Cost-of-living indices
141421 Compensation awarded pursuant to this division shall be reduced by any benefits to which the patient or has survivor is entitled by reason of the loss, including benefits payable by the Federal Social Security Act, except Titles XVIII and XIX thereof, benefits paynble pursuant to Division 4 (commencing with Section 3200) of the Lubor Code, and insurance benefits other than the proceeds of life insurance In determining the amount of such insurance bencfits for purpobes of this section, msurance premiums pard by or on behalf of the insured to secure insurance benefits shall be deducted from the total of such benefits which the elaimant has recerved or to which he is entitled "'

## Amendment 19

On page 24 , line 14 , strike out ", and to the number of attorneys,"
Amendment 20
On page 25 , line 28 , strake out "superior court", and insert "Judicial Council'".

## Amendment 21

On page 25, line 29, after "court", insert "in the county of the occurrence of the compensable injury'.

Amendment 22
On page 25, strike out line 31, and msert "state board or agency to which the".

## Amendment 23

On page 25, line 34, strike out "mal", and insert "serve notice".

## Amendment 24

On page 25, line 36, strike out "maling'", and insert "notire"

## Amendment 25

On page 26 , line 2 , strike out "three peremptory phallenges', and insert "one peremptory challenge"

## Amendment 28

On page 26 , line 15 , strike out "of", and insert " $n$ ver"
Amendment 27
On page 27, line 12, strike out "letters", and msert "documents".

## Amendment 28

On page 28 , line 32, after the period, insert "All proceedings shall be reported by a court reporter as prescribed by the superior court of the county in which the proceedings are held."

Amendment 29
On page 29, line 10, strike out "The attorney of"; and strike out lines 11 to 13, inclusive, and msert "Any party or his attorney may make a statement on the facts of the case."

## Amondment 30

On page 30 , line 16 , after "thereupon", insert "give notice to and".
Amandment 31
On page 31, line 33, after "dispute," insert "subject to cross examination,' ${ }^{\prime}$.

Amendment 32
On page 32, line 18, strike out "of", and insert "over".

## Amendment 33

On page 32, between lines 26 and 27 , insert
" 14235 . No discovery shall be permitted by either party other than that preseribed in this division unless otherwise ordered by the hearing panel "

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

Assembly Bill No. 14-An act to add Article 12 (commencing with Section 825) to Chapter 1 of Division 2 of the Business and Professions Code, relating to malpractice actions.

Bill read second time.

## Consideration of Author's Amendmente

The following guthor's amendments, pursuant to the Assembly Rules, were read, and adopted:

## Amendment 1

On page 2, lines 6 and 7, of the printed bill, as amended in Assembly June 9, 1975, strike out "five thousand dollars ( $\$ 5,000$ )", and insert "ten thousand dollars ( $\$ 10,000$ )".
Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

## INTRODUCTION, FIRST READING, AND REFERENCE OF A8SEMBLY BILLS

The following bill was introduced, read the first time, and ordered held at the Desk

Assembly Bill No. 34: By Assemblyman Torres-An art to add Division 5 (eommencing with Section 14000) to the Insurance Code, relating to medical malpractice insurance, and makiug an appropriation therefor.

## REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bill was referred to committee:
Assembly
Bill No.
Committee
34
Finance, Insurance, and Commerce
RECESS
At 10.11 a.m., Acting Speaker Nimmo declared the Assembly recessed

## REASSEMBLED

At 2.47 p.m, the Assembly reconvened.
Hon Robert P Nimmo, Member of the Assembly, 20th Distriet, presiding.

ADJOURNMENT
At 2.48 pm , Acting Speaker Nimmo deelared the Assembly adjourned untıl 9 a m., Wednesday, Jume 11, 1975.

LEO T McCARTHY, Speaker
ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE
1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAlLY JOURNAL <br> SIXTEENTH LEGISLATIVE DAY TWENTY-FOURTH CALENDAR DAY <br> IN ASGEMRLI <br> Assembly Chamber, Sacramento <br> Wednesday, June 11, 1975 <br> The Assembly met at 10.28 a m <br> Hon William Thomas, Member of the Assembly, 33rd District, presiding <br> Chief Clerk James D Driscoll at the Desk <br> Assistant Clerk Ray Monday reading.

ROLL CALL
The roll was called, and the following answered to their names-75:

| Antonoyzeh | Colliel | Jıov | Priolo |
| :---: | :---: | :---: | :---: |
| Arnett | Craven | Lanchater | Ralph |
| Badham | Cullen | Lanterman | Rolinson |
| Rane | Dasis | Jew 15 | Rosenthal |
| Bannat | Deddeh | Jochter | Stegler |
| Berman | Dizon | MarDonnld | Sierot? |
| Reverls | Duffy | Marliy | Suitt |
| Boaturaght | Egrland | Medlister | Thomas, Vincent |
| Briggs | Fenton | Mevittie | Thomas, Wullam |
| Brown | Fotan | Mrade | Thurman |
| Burke | Guramendi | Miller | Torres |
| Calio | Gogein | Moble: | Vameoncellos |
| Camphell | Greene | Montosa | Ficenera |
| Carpenter | Gurlco | Nort | Whisen |
| Chncon | Hat | Murphy | Wrlson |
| Chappre | Hayden | Npstande | Wormam |
| Chel | Ingalls | Nimmo | Z'herg |
| Chimbole | Kapuloff | Papan | Mi Sueaker |
| Cline | Kppne | Perino |  |

## Quorum present

## REGULAR BUSINESS DISPENSED WITH

By unanmons consent, the regular order of business of the Assembly was dispensed with for this legislative day.

LEAVES OF ABSENCE FOR THE DAY
The following Members were granted leaves of absence for the day, because of illness :

Mr Alatorre, on request of Acting Speaker William Thomas.
Mr. Tucker, on request of Acting Speaker William Thomas.
The following Member was granted leave of absence for the day, on personal business, and desired to waive his per diem:

Mr. Keysor, on request of Aeting Speaker Wilham Thomas.
The following Member was granted leave of absence for the day, because of a death in his family.

Mr McLennan, on request of Acting Speaker William Thomas.

## COMMUNICATIONS

Assembly Chamber, June 11, 1975
Mr Speaker Pursuant to your instructions, the Chef Clerk has examined:
Assembl, Bill No 11
Assembly Bill No 14
And reports the same correctly engrossed
JAMES D DRTSCOLL, Chipf Clerk
Above bills re-referred to committee.

## ANNOUNCEMENTS

Acting Speaker Wilham Thomas was granted unanumous consent that the Health Committee be permitted to hold a special meeting Monday, June 16, at $7 \cdot 30 \mathrm{pm}$ to hear Assembly Bills Nos 2, 6, 31, 4, 5 , and 13 .

## CONBIDERATION OF DAILY FILE SECOND READING OF ASSEMBLY EILLS

Assembly Bill No. 10-An act to add Article 8 (commencing with Section 1325) to Chapter 2 of Division 2 of the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect ummediately
Bill read second time.
Consideration of Committee Amendments
The following amendments, proposed by the Committee on Finance, Insurance, and Commerce, were read, and adopted:

## Amendment 1

On page 2 of the printed bill, line 17, strike out "or (c)", and insert ", (c) or (d)'.

## Amendment 2

On page 3, line 3, after " (b)', insert "or (d)'",

## Amendment 3

On page 3, between lines 11 and 12. msert
"(d) As an alternative to proceedmg under subdivision (b) or (c), the Secretary of the Health and Welfare Agency may, on behalf of the state, make a loan or guarantee a thurd party loan to the operator or the bankruptey receiver of the hospital during the pending of Chapter 11 of Title 11 of the United States Code proceedings for the
purposes of keeping the hospital open and affecting an agreement with unsecured creditors. Nothing in this subdivision shall authorize the creation of a debt or liability of the state withm the meanng of Section 1 of Artiele XVI of the State Constitution "

Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means.

## AUTHOR'S AMENDMENTS <br> Committee on Finance, Insurance, and Commerce

Assembly Chamher. June 11, 1978
Mr Speaker : The Chairman of your Committee on Funnce, Insurance, and Commerce reports

Assembl\} Bill No 8
With anthor's amendments with the recommendation Amend. and re-refer to the Committee on Finnnce, Insurnace, and Commerce

McALISTER, Charrinn
Assembly Bill No. 8-An act to add Division 5 (commencing with Section 14000) to the Insurance Code, relatug to medical malpractice, and muking an appropriation therefor.

Bill read second time
Consideration of Author's Amendments
The following author's amendments, pursuant to the Assembly Rules, were read, and adopted-

## Amendment 1

On page 2 of the printed bill, strike out line 5 , and insert "INSURANCE

Chapter 1. State Medical Malpractice Ynsurance Fund'’.

## Amendment 2

On page 2, between lines 15 and 16 , insert
"(d) "Panel" means the Medical Malpractice Hearing Panel ereated by this division "

## Amendmant 3

On page 2, line 26, strike out "director", and insert "commissioner".

## Amendment 4

On page 8, between lines 18 and 19, msert

## "Chapter 2 Medical Maipractice Hearino Panel

14040. The Medical Malpractue Hearmg Panel is hereby created in the department, to be romposed of five members apponted by the Governor as follows A hast of five persons shall be submitted to the Governor by each of the following The State Bar of C'aliforma, the Califormia Supreme Court the Califorma Medieal Ashociation, and the Cahfornid Il ealth Coordmating Councll The Governor shall select one name from each surh hist for memberalup on the panel

14041 Each civil action filed in thas state aghanst a hensee or medical eorporation allegmg medical malpractice shall be referred to the prmel by the clerk of the court m whelh surb action is filed No proveedings may be held in such eivil action except as provided in this chapter

14042 Upon receipt of the referral of a civil action pursuant to Section 14041, the panel shall, as' expeditiously as possible, conduct such investigation of the action as it deems necessary, and conduct a bearing thereon to determine the validity of the complant The panel shall make such determinations in the aetion as the evidence in the case merits.

If the panel finds for the defendant, the panel shall award the defendant all costs incurred in this action, to be pand by the plaintiff.

If the panel finds for the plaintiff, the panel shall award the plaintiff all medical costs actually uncurred and all medical costs which the plaintiff will inenr in the future arising from the defendant's malpractice The panel shall also award the plantiff noneconomic benefits, including but not limited to, pain and suffering, pursuant to a schedule adopted by the Judicial Council, and all costs incurred in the action.

14043 If either party is aggrieved by a determination and award of the panel, such party may obtain a trial de novo in the superior court having jusisdiction over the matter The determination and award of the panel shall be admissible by either party in such action.
14044. In any case in which the physician or medical corporation is found to be guiltv of medical malpractice, whether by the panel or after a trial, the panel or the court clerk, as the case may be, shall mmediately send a record of the proceedings to the Board of Medical Examiners of the State of California for such of the following disciplmary actions as are fonnd to be approprate by the Board of Medical Examiners after hearmg-
(a) Censure
(b) Probation for a determinate period of time.
(c) Suspension of license for a determinate period of time.
(d) Revocation of license "

## Amendment 5

On page 8, line 20, strike out "to", and insert "the sum of ............ dollars ( (--....-- ), to be allocated as follows-
(a) $\mathrm{To}{ }^{\prime \prime}$.

## Amendment 6

On page 8 , after line 22 , insert
"(b) The sum of ........ dollars ( ( .......) to the State Controller for reimbursement to local agencies pursuant to Sebtion 2231 of the Revenue and Taxation C'ode for costs incurred by them pursuant to this act."

Bill ordered reprinted, and to be re-referred to the Committee on Finance, Insurance, and Commeree.

RECESS
At $10 \cdot 29$ a m., Acting Speaker William Thomas declared the Assembly recessed.

## REASSEMbLED

At $301 \mathrm{p} . \mathrm{m}$, the Assembly reconvened
Hon Willam Thomas, Member of the Assembly, 33rd District, presiding.

## AUTHOR'S AMENDMENTS

Committee on Judieiary
Assembly Chamber, Jnne 11, 1975
Mr Speaker The Charman of sour Comonttee on Tudicinay reports
Aspembly Bill No 1
With author's amendments with the recommendation Amend, and re-refer to the Committee on Judiciar:

MISLLCR Chamman
Assembly Bill No. 1-An act to amend Sections 125 5, 2100, 2101, 2361, 2362, 2364, 23725 , 2436, and 2454 of, to add Seetions 21005 , $21006,2100.7,21008,21015,21016,2122,2372$ and 23721 to, to add Article 11 (commeneing with Section 800) to Chapter 1 of Division 2 of, to add Article 23 (commencing with Section 2123) and Article 2.4 (commencing with Section 21245 ) to Chapter 5 of Division 2 of, to add Article 85 (commencing with Section 6146) to Chapter 4 of Division 3 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 23 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code ; to add Section 3333 I to the Civil Code, to amend Section 3405 of, and to add Section 6677 to. the Code of Civil Procedure, and to add Sections 11587 and 11588 to the Insurance Code, relating to health, and making an appropriation therefor

Bill read second time.

## Conaideration of Author's Amendmenta

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted

## Amendment 9

In line 6 of the heading of the printed bill, as amended in Assembly June 6, 1975, strike out ''and Perino''; and strike out line 7, and insert "Perino, and Vasconcellos
(Principal Senate Coauthor Rains; Coauthors. Senators Greene and Nejedly)".

Amendment 2
In line 1 of the title, after " 2101 ," insert "' 2119, ".
Amendment 2.5
In line 3 of the title, after " 2122 ," msert " 23613 ,"

## Amendment 3

In hine 12 of the title, after "Code,', minert "to amend Section 43.8 of, and".

## Amendment 4

In line 13 of the title, strike out "Section 3405 ", and insert 'Sections 3405 and $10945^{\prime \prime}$.

## Amendment 4.5

On page 6, strike out limes 8 to 10 , melusive, and msert "provision of health care."

## Amendment 5

On page 24 , strike out lines 3 to 37 , melusive, and insert
" 1255 (a) The superior court for the county in which any person has engaged or is about to engage 11 any act which constitutes a voolation of a chapter of this code admmintered or enforced by a board
within the department may, upon a petition filed by the board with the approval of the director, issue an injunction or other appropriate order restraining such conduct The proceedings under this section shall be governed by Chapter 3 (commenemg with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that no undertaking shall be requured As used in this section, "board" includes commission, bureau, division agency and a medical quality review committee
(b) The superior court for the county in which any person has engaged in any act which constitutes a volation of a chapter of this code admmistered or enforced by a board within the department may, upon a petition filed by the board with the approval of the direetor, order such person to make restitution to persons injured as a result of such volation.
(c) The court may order a person subject to an injunction or restraining order, provided for m subdnvision (a) of this section, or subject to all order requiring restitution pursuant to subdivision (b), to reimburse the petitioning board for expenses incurred by the board in its investigation related to its petition
(d) The remedy provided for by this section shall be in addition to, and not a limatation on, the authority provided for in any other section of this code."

## Amendment 5.5

On page 25, line 7, strike out "Examiners', and insert "Quality Assurance' .

## Amendment 6

On page 25, strike out lines 35 to 40 , inclusive, and on page 26 , strike out lmes 1 to 5 . inclusive, and insert
"Each such complant shall be ommedately forwarded to the appropriate medical quality review committee for action, pursuant to Article 23 (commencing with Section 2123) of Chapter 5
(c) The contents of any wuch file shall be confidentral except that it may be reviewed (1) by the person involved or his counsel or representative, save for the information or evidence supplied pursuant to subdivision (g) of Section 2361 which shall remain confidentid unless a disemplinary proceeding is brought by the board, and said mformation or evidence is used as a bacis of dsepplinary uction, (2) by any district attorney or representative or investigator therefor, (3) by any representatuve of the Attorney General's office or investigator thereof, or (4) by any investigator of the Departnent of Consumer Affairs Such person may, but is not required to submit any additional exculpatory or explanatory statements or other informition which statements or other information must be included in the file "

## Amendment 7

On page 29, line 3, after the parenthesis, insert ", or any health care service plan or medical care foundation"'.

## Amendment 8

On page 29 , line 7 , strike out "mutial'.

[^2]
## Amendment 9

On page 29 , line 14 , strike out " $1 t$ ", and insert "such uction"
Amendment 10
On page 29, line 22 after "including", insert "a summary of administrative and disciplinary action trken with respect to such reports and''.

Amendment 11
On page 29, line 23, strıke out "department", and insert "ageney""
Amendment 41.2
On page 30, line 23, strike out "Review".
Amendment 11.5
On page 30, line 24, strike out ", Examination and Recertification"
Amendmant 11.6
On page 30, line 28, strike out 'Review".
Amendment 11.7
On page 30, lines 38 and 39 , strike out ", Examination, and Recertsfication'

## Amendment 12

On page 31, line 36, strike out "or of any other board under"; strike out line 37 ; and mine 38 , strike out "and 3600 ".

Amendment 12.2
On page 32, line 5, strike out "Review"
Amendment 12.4
On page 32, lmes 7 and 8 , strike out ", Examination and Recertufication'.

Amendment 13
On page 32, line 9 , strike out "two", and insert "three"
Amendment 14
On page 32, line 13, strike out "three', and insert "two"
Amendment 45
On page 32, hne 21, strike out ' Review'.
Amendment 16
On page 32 , lines 22 and 23 , strike out "and periodic recertification'.

## Amendment 17

On page 32, lane 23, after the period, msert "Spectal continuing education standurds shall be developed for rertificate holders who are also holders of board spectalty certificates"

## Amondment 17.5

On page 32, line 25, stuke out "recertıfication", and insert "reassessment of competence"

## Amendment 18

On page 32, line 26, strike out "Recertification', and msert "Such reassessment'.

## Amendment 18.6

On page 32. lines 27 and 28, strike out ", Examination and Recertification".

## Amendment 18.6

On page 32, between lines 29 and 30 . insert
"SEC 115 Section 2119 of the Busmess and Professions Code is amended to read

2119 the A domsion of the board may. Wuthin ats gurisdiction, adopt, amend, or repeal, in accordance with the provisome of the Admmustrative Procedure Aet. such rules as may be reasonably necessary: to enable it to carry moto effect the provisions of this chapter $\mathfrak{f f}$ and






Frue members of the Durismon of Mrdical Qualty, thres nicmbers of the Diveron of Leensing. and threr members of the Durpion of Alhed Health Professions shall constatite a quorum for the transaction of business, at any mefteng

It shall require the affirmatue rote of a majority of those present at a meetong whech shall be at lrast a majarity of a nommum quormut wethen a dutsun to carry any motwon on resolutwon, to adapt any rule to pass any monsure, or to authorize the sespance of any certificate under this chapter, crecpf that a decison by the Dumstan of Meducal Qualuty to revake the certaticate of a physucian and suggron shall requare an affirmatwe vote of fire members of the duwsom "

Amendment 18.7
On page 32 , lime 32 , strike ont "Review".

## Amendment 18.8

On page 33, line 3, strike out "Review"
Amendment 18.9
On page 33, line 24, strike out 'Review".

## Amendment 19

On page 34, strike out limes 18 to 40 . snclusive, and on page 35, strike out limes 1 to 16 , molusise. and insert
"21233 A medicol qualits revew committee ts hereby created for each of the dintruts estrhbished by Section 21232 Each commuttee shall be composed of persons apponited by the Governor from among residents of the district
The meducal qualite review commotees, shall have the following rompostion
(a) The first district shall be composed of 15 members, mone of whom shall hold valid phasierin's and surgeon's eertificates, threa of whom shall be puble members, and three of whem shall he herentates, of a healmg arth board other than the Board of Medieal Qualty Assuranee
(b) The second distrist shall be composed of 20 members. 12 of whom shall hold valdd physicidn's and surgeon's certificates, four of
whom shall be public members. and four of whom shall be licentates of a healing arts board other than the Board of Medical Quality Assurance
(c) The third district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates; two of whom shall be public members, and two of whom shall be heentiates of a healing arts borvd other than the Board of Medient Quality Assurance
(d) The fourth district shall be composed of 10 members, six of whom shall hold valid physicim's and surgeon's certificates, two of whom shall be public members, and two of whom shall be lieentiates of a healing arts board other than the Board of Medical Examiners
(e) The fifth district committee shall be composed of 10 members, six of whom shall hold vald physician's and surgeon's certificates, two of whom shall be puble members, and two of whom shall be licentuates of a healing arts board other than the Board of Medical Quality Assurance

A nedical quality review commitee may, pursuant to regulations adopted by the Division of Medical Quality, establish panels of five committee members consisting of three physieian members, one public member, and one member who is a heentinte of a healing arts board other than the Board of Medical Quality Assuranee for the purposes of hearing and deciding cases before a committee Five members shall constitute a quorum in order for a panel of a committee to conduct busmess, It shall require an affirmative vote of a majority of those present at a meeting of a panel, such majority constituting at least a majority of a minmum quorum for a panel to decide any case, adopt any rule, pass any measure, or make any recommendation Where a medical quality review committec meets as a whole, a majority of the membership of the committee shall constitute a quorum to conduct busmess It shall require an affirmative vote of a majority of those present at a meeting of a committee, such majority constituting at least a majority of a mmmum quorm for a committee, to decide any case, adopt any rule, pass any measure, or make any recommendation

A finding or decision by a pimel establashed under this section shall constitute a finding or deculiom by a commuttee

21234 Each member of pach committee, except the mital members, shall be appointed by the Governor for a term of four yeurs

Of those rippomtments of physicians and surgeons to be made by the Governor to medical quality review committees, for every three physicians to be so appointed, one shall be appointed from among not less than three percons to be nommated by pofessional medical societies, withon the district, whel repiesents the piofession at large, one shati be apponted from the faculty of a clomeal department of an approved medical school in the state. The faculty member need not reside in the distriet and shall be appointed from among not less than three nominations submitted to the Goverion by the deans of the approved medienl schools of the state One member shall be apponted by the Goyernor from among not less than three nommations which are submitted to him be the Division of Medieal Quality.

Each physucinn and surgeon appontee shall be licensed to practice in Calitorna.

Each member shall hold office until the appointment and qualificdtion of his suceessor, or until six months have elapsed since the expration of the term for which he was appointed, whichever first occurs.

The initial members of each conmittee shall classify themselves by lot, so that one of them shall serve a term which expires on September 1, 1978, two of them shall serve terms which expire on September 1, 1979, und two of them shall serve terms which expire on Septeniber 1 . 1980."

## Amendment 20

On page 35, strike out lines 30 to 40 , inclusive; and on page 36 , strike ont lines 1 to 20 , inclusive, and insert
" 2123 8. Each committee or panel of a committee shall hear all matters assigned to it by the board, including, but not limited to, any contested case which is нssigned to it by the Division of Mediral Qual. ity, and such other matters the committee finds upon investigation warrant action pursuant to Sections 2124 and 2361.
2123.9. Except as otherwise provided in this article, all hearings shall be conducted by a committee or panel of a committee in accordance with the provisions of Chapter 5 (commencing with Section 1150)), Part 1. Division 3, Title 2 of the Government Code.

If a contested case is heard by a committee or panel of a committee, the hearing officer who presided at the hearing shall be present during the committee's consideration of the case and, if requested, shall ussist and advise the committee.
2123 10. At the conclusion of any hearing which is conducted by a committer, the committee shall render its decision a decision by a committee culling for the discipline of a lieensee, or the suspension from practice of a hicensec for 30 days or less, shall be final, except where the committee orders reconsideration pursuant to Section 21241 Where a committee renders a derision calling for suspension of a license for a period exceeding 30 days or revocation of a license, the decinon shall constitute a recommendation to the Division of Medical Quality of the board. No suspension for a period exceeding 30 dayk or revoration of a license shall be carried out except upon order of the Divison of Mediceal Quality following a hearing to be held by the Divison of Mederal Quality in aceordance with Chapter 5 (commencing with Section 115 (6)) of Part 1 of Division 3 of Titie 2 of the Government Code, and the Division of Medical Quality shall have the powers granted therein "

## Amẹndment 21

On page 36, strike out lines 21 to $\mathbf{4 0}$, inclusive ; and on page 37, strike out lines 1 to 23, inclusive, and insert
"2124. A medical quality review committen shall have the folloning authority and duties:
(a) To initiate reviews by the Division of Investigation of the department of the quality of medical care practices and certificate holders
(b) To initate inventrgations by the Divison of Invecturation of the department of complants made by members of the publir, and other certificate holders, a health care facility or the board that a certificate" holder has been guilty of unprofessional condurt and to report to the complainant within 90 days of the receipt of the complaint by the committee as to the committee $s$ findings and decision All investiget-
completed within 90 days, with 30 -day progress reports submitted to the Division of Medical Quality
(c) To investigate the standards of practice of any physician and surgeon certificate holder which circumstances have resulted in any judgment or settlement requiring the certificate holder or insurer of the certificate holder to pay any amount in damages in excess of three thousand dollars ( $\$ 3,000$ ) with respect to any claim that injury or damage was proximately caused by the certificate holder's error, neglgence, or omission
(d) Where a review or investigation carried out pursuant to subdivision (a), (b), or (c) of this section results in a likelihood or a finding of unprofessional conduct, to hold a hearing pursuant to Section 21238 to determine whether unprofessional conduct has occurred.
(e) Upon a finding of unprofessional conduct to take appropriate remedial or disciplinary action in relation to the certificate holder pursuant to Sections 2372, 2372.1, and 23725.
(f) Seek injunctions or restraining orders pursuant to Section 2436
21241. Any decisom of the Division of Medical Quality or of a committee within the authority granted it by this article is final, except that the Diviston of Medical Quality or a committee may, on its own motion or on pettion of any party, within the time and in the manner preseribed in Chapter 5 (commencing with Section 11500) of Part 1, Duvision 3, Title 2 of the Government Code, order a reconsideration of all or any part of a case.

2124 2. The Division of Medical Quality shall adopt, amend, or repeal, 10 accordance with the provisions of Chapter 45 (commeneng with Section 11371), Part 1, Drvision 3, Tatle 2 of the Government Code, such regulations as may reasonably be necessary to enable medical qually review committees to carry into effect the provisions of this article."

## Amendment 22

On page 37, lines 33 to 35 , strike out "or from the California Arbitra. tion Commission on medical injury compensation'.'

## Amendment 23

On page 38 , between lines 1 and 2 , insert
"21248 Any physician and surgeon may commanicate to the committee regarding any other physican and surgeon Such communications shall remain confidential and shall not be admissible before any hearing or before any court except that the committee may begin investigation on the basis of such communication and may use such communication to develop further information Such communichtion, except as provided in subdivision (c) of Section 800 , shall be admissible in a defamation action where it is alleged that communcation is false and made with malice."

Amendment 24
On pape 38, line 32, strike out 'board", and insert "Division of Medical Quality'.

## Amendment 25

On page 39, between lines 12 and 13 , insert
" (g) When a certuficate holder knows or reasonably beheves that a patient has recesved injury due to a negligent act, or a negligent
omission to act, or an act of professional incompetence by another certificate holder and fails to report such instance or oceurrence to the board.

SEC. 16 2. Section 2361.3 is added to the Business and Professions Code, to read.
23613 It shall be unprofessional conduct for a physician to refuse to treat a patient because the patient refuses to enter into an arbitration agreement This section shall not apply to any physician employed by medical corporation which has contracted to provide services for a health care service plan that has negotiated an arbitration agreement with its subseribers and enrollees

SEC. 165 Section 23615 of the Business and Professions Code is amended to read.
2361.5 Clearly excessive preseribing or administering of drugs or treatment, use of diagnostic or therapcutic procedures. or use of dag. nostic or treatment facilities which are detrimental to the patient, as determined by the customary pracice and standards of the loral community of licensees, is unprofessional conduct withm the meaning of this ehapter in addtion to other matters defined as unprofessional conduet in this chapter "

## Amendment 26.5

On pape 39, lines 15 and 16, strike out ", Examination and Recertification'.

## Amendment 26

On page 39, between lines 21 and 22, insert
"Earh committee shall be staffed with at least one medural consultant, and sufficient competent investigators from the Division of Investigation of the department as are necessary to carry out the purposes of this article."

## Amondmant 26.5

On page 39, line 36, strike out "Review"

## Amendment 28.7

On page 39, line 40, strike out "Review'".

# Amendment 26.8 

On page 41, line 8, strike out 'Review".

## Amendment 28.9

On page 41, line 9, after "Allied", insert "Health".

## Amendment 27

On page 41, line 39, strike out "medueal injury tort claim', and msert "an action for mjury or damape agamet a physician and surgeon, dentist, registered murse, dispensing opticidn, optometrist, registered physical therapist, podiatrist, licensed psyrhologist, onteoputh, thiropractor, elmical laboratory bioanalyst, clmia al laboratory techlimologist, vetermarian or a licensed hospital as the employer of any surlh person, based upon such person's alleged professomal negligener or for rendering professonal services without consent or for erior or omission in such person's practice; nor shall the court award upon motion, expenses in a private enforcement action to qualified parties agamst

## Amendment 28

On page 42 , line 26 , after the period, insert "If periodir payments are awarded to the plaintiff pursuant to Section 6677 of the Code of Civil Procedure, the court shall place a total monthly valne on these payments based upon the projected life expectancy of the plaintiff and include this amount in computing the total award from whieh attorneys' fees are calculated under this section"

## Amendment 29

On page 42, between lines 38 and 39 , msert
"(d) For purposes of this section, the terms.
(1) "Private enforcement action" means a court action, or to an administrative hearing of either a guns'judicun or quasilegislative nature, initiated by a public or private party, in which the participation of a party, intervenor or ammus curize has
(i) Enforced important publie policy or vindicated an important right;
(ii) Conferred a significant benefit on a substantial segment of the puble, or
(iii) Represented an interest not otherwise adequately represented because of the poverty, lack of organization or similar handieap of those persons affected by the interest, and which representation was necessary for a fair resolution of an issue in the action
(2) "Qualified party" means a private person, agency organization or group that intinted. defended, intervened in, or served as amicus curige in, a private enforcement action to achieve a sociptal objective of the type listed in paragraph 1, whose partucipation has in significant measure achieved such objective, and whose participation was not justified by private economic mterest
(3) "Expenses" means all funds reasonably expended and all liabilities reaconably incurred by a qualified party or its counsel in order to participate effectively in a private enforcement action, including reasonable fees for attorneys and expert witnesses, m making such expenses awards, the eourt shall give full consideration to the quality of the services provided, the contingent nature of expense awards, the eomplexity and novelty involved, the nature and extent of benefits conferred, and other appropriate equitable considerations, when no damages are awarded in a prisate onforement getion, the court shall determine the monetary walne of the benefit conferred upon the publuc and then apply the scale set forth in this section
(4) "Arcountable party" means any plaintff, defendant, or intervenor, including the State of Californa or local public entity, and a department or arency, officer. employee or agent thereof, in a private enforecment artum whose polucies, practices, actions or plans wonld have precluded, dimimahed, or ignored a socirtal objective of the type hasted in paragraph 1 but for the action of a qualified party
(e) The provisoms of thas section shall apply to anve private enforcement action pending in the courts of this state or mo courts of the Thited States and in which a final judgment has not beene entered as of January 1. 1975, however, suld provions shall not apply to the extent that the award of expensce is expressly prohbited by statute or the amount thereof is fixed or otherwise expressly limited by statute.

# SEC. 24.4. Section 43.8 of the Civil Cocle 15 amended to read- 

438. In addition to the privilege afforded by Section 47, there shall be no monetary liability on the part of, and un cause of artion for damages shall arise agrainst, any person on aceount of the communication of information in the posession of such person to any hospital. hospital medical staft, professional society, medical or dental selion, ar professional licensing board; or division, commiftre om panel of such licensing bnard when such communication is intended to and on the evaluation of the qualifications, fitness or character of a practitioner of the healing arts and dires not represent as true any matter not reasonably believed to be true."

## Amendment 29.5

On page 43 , strike out lines 1 to 40 , inclusive; on page 44, strike out line 1; and in line 2, strike nut "(b) Any", and insert
"3333.1 (a) In the event the defendant so plects, amy"

## Amendment 29.7

On page 44, line 22, after the period, insert "Where the defendant elects to reduce benpfits as provided int this section, the plantiff may introduce evidence of insurance coverage of the defendant against which damages may be assessed in the action.
(b) Unless otherwise expressly provided by stafute, a collateral source of indemnity deseribed in subslivision (a) shall not be subrogated to the rights of the plaintiff against a defendime"

## Amendment 29.8

On page 44, line 37, after the second "the", insert "last"

## Amendment 30

On page 45. line 9, after "payment". insert "if the payment of such particular payments is not to be completed within three calendar years after the rendering of the court award ".

## Amendment 31

On page 45, line 11, strike out "the jury or".

## Amendment 32

On page 45 , lines 11 and 12 , strike nut ", in the event the trial is without a jury,".

## Amendment 33

On page 46, between lines 36 and 37 , unsert
"SECC. 265 Section 1094.5 of the Code of Cival Procedure is amended to read:
1094.5. (a) Where the writ is issued for the purpose of ingnimg into the validity of any final administrative order or decison made as the result of a proceeding in which by law a hearme is requined to be given. evidence is reguired to be taken and darsetion in the determmation of facts is vented in the inferior tribunal corporation, board or officer, the case shall be heard by the court atting without a jury. All or part of the record of the procedmgs befole the mferior tribunal, corporation, board or officer may be filed with the petinon, may be filed with respondent's points and authoritien or may be ur-
*. dered to be filed by the court. If the expense of preparing all or any
part of the record has been borne by the prevailing party, such expense shall be taxable as costs.
(b) The inquiry in such a case shall extend to the questions whether the respondent has proceeded without, or in excess of jurisdiction; whether there was a farr trinl; and whether there was any prejudicial abuse of discretion Abuse of discretion is established if the respondent has not proceeded in the manner required by law, the order or decsssou is not supported by the findings, or the findings are not supported by the evidence.
(c) Where it is claimed that the findings are not supported by the evidence, $m$ eases in which the court is authorized by law to exercise its mdependent judgment on the evidence, abuse of discretion is established if the court determines that the findings are not supported by the weight of the evidence; and in all other cases abuse of discretion is established of the court determines that the findings are not supported by substantial evidence $m$ the light of the whole record
(d) Where the court finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was mproperly excluded at the hearing before respondent, it may enter judgment as provided misubdivision (e) of this section remanding the case to be reconsidered in the light of such evidence, or, in cerses on which the court is authorized by law to exercise its independent judgment on the evidence, the court may admit such evidence at the hearing on the writ without remanding the case.
(e) The court shall enter judgment either commanding respondent to set aside the order or decision, or denying the writ. Where the judg. ment commands that the order or decision be set aside, it may order the reconsideration of the case in the light of the court's opinion and judgment and may order respondent to take such further action as is specially enjoined upon it by law but the judgment shall not limit or control in anv way the diseretion legally vested in the respondent
(f) The Except as provaded in subduyison (b), the court in which proceedmas under this section are instituted may stav the operation of the admmistrative order or decision pending the judgment of the court, or untal the filing of a notice of appeal from the judgment or until the expiration of the time for filing such notice whechever occurs first, provided that no such stay shall be imposed or continued if the court is satisfied that it 15 against the public interest, provided that the application for the stav shall be arcompanied by proof of service of a copy of the application on the respondent Scrvice shall be made in the manner provided by Title 5 (commeneng whth Section 405) of Part 2 or Chapter 5 (commencing with Sectoon 1010) of Tatle 14 of Part 2 If an appeal is taken from a demal of the writ, the order or decision of the apency shall not be stayed except upon the order of the court to which such appeal is taken, provided that, in cases where a stay is in effect it the time of filng the notice of appeal, such stay shall be continued by operation of law for a period of twenty (20) days from the fing of such notice If an appeal is taken from the granisng of the writ, the order or decision of the agency is stayed pending the determination of the appeal unless the court to which such
appeal is taken shall otherwise order Where any final admmistrative order or decision is the subject of procepdings under this section, if the petition shall bave bean filed while the penalty monped $2 x$ in full foree and offect the determination shall not be considered to lave become noot in cases where the penalty imposed by the adminstrative agency has been completed or comphed with during the pemdency of such proceedings
(g) The court in which procecdings under this section are inetituted may stay the operatom of the administrative order or decision of any licensing board respecting any person heconsed pusuant to Dureson 2 (commencing with Scction 500) of the Business and Professions Code, except Chapter 11 (commencing u'th Sceton 4 ROD) thercof, or Isensed pursuant to the Osteopathic Intuative Act or the Chiropractic Intative Act pending the gudgnient of the comrt, or unth the filong of a notice of appeal from the judgnest or until the expuration of the time for filing such notace wheheerer occurs first; prorided that such stay shall not be imposed or continucd unicxp the court ws satisfied that the public interest whll not suffer and the licensengl buard is wnhkely to prevail uttimately on the merits; and provided further that the apph. cation for the stay shall be accompanied by pronf of setrice of a copy of the application on the respondent Serrics shall be mads in the manner provided by Title 5 (commencing urth Sfction 105) of Part 2 or Chapter 5 (commencing urth Section 1010) of Title 14 of Part 2 If an append is taken from a denal of the wrat, the onder or decision of the agency shall not be stayed crecpl upon the order of the cmurt to which such appeal is taken: provided that. in cases where a vay is in effect at the time of filing the notyer of appeal. such stay shall br continued by operation of law far a period of turnty (20) days from the fuling of such notice If an appeal is taken fiom the grantiong of the zurit, the order or decisaon of the agency is sfamed prnding the determination of the appeal unless the court in which such appeal we tatern shatl otherwese orider Where any fimel admanisfrature ofder or decisonn is the subject of proceedinge under thes section, if the prtution shall have been filed while the pernalty imposed $t s$ in full force and effert the determinatun shall not be considered to hare become most in cases where the penalty impused by the admmishratio agency has been completed or complicd with during the pendency of such procreflages"

Bill ordered reprinted, and to be re-leferred to the Committere on Judictary:

## JOINT RULE 62(*) WAIVED

Acting Speaker William Thomas was granted unamimous ponsent that Joint Rule 62(a) be waved for the puspose of setting Assembly Bill No 1 for hearing in the Committee on Judhetry on June 12. 1975

## ADJOURNMENT

At 4 pm , Acting Speaker Willam Thomas dechared the Assembly adjourned until 1 pm , Thursdis., Jume 12, 197.5

## LEO T. MeCARTHY, Speaker

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAlLY JOURNAL

## SEVENTEENTH LEGISLATIVE DAY <br> TWENTY-FIFTH CALENDAR DAY

## IN ABsEMBLY

Assembly Chamber. Sacramento
Thursday, June 12, 1975
The Assembly met at $\mathbf{4 . 3 7 \mathrm { pm }}$
Hon Leo T Me ('arthy, Speaker of the Assembly, presiding. ('hof ('lerk James I) Driseoll at tlie Denk.
Assistant ('lerk Ray Monday readug
ROLL CALL
The roll was called, and the following answered to their names-76:

| Alatorre | Clate | Keene | I'rerno |
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| Inomtuintht | Jigeland | Manlels | Thumins, Vincent |
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| ('hacon | Ilart | Mori | Wiltann |
| ( hapurar | Ifay ren | Alirulis | Wornum |
| ( Chal | Ingollm | Simmo | V'lnerg |
| Cbimbote | Kipuloff | Invan | Mr. Spenker |

Quorum present.

## PRAYER

Upon invitation of Speaker MeCarthy, the following prayer was offered by the Hon Wadie P Deddeh, Member of the Assembly, 80th Assembly District:

Father, We live in a world of great confusion, despair ind problems We need, therefore, the strength to recognize our weaknesses and the vision to rdeutify what needs to be done

Give us, Lord, the wisdom to do that which is right, the will and the determination to stand for the truth even though it would be at times unpopular.

But above all, Father, help us serve with dignity and honor the good people of this great state.-AMEN.

## PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Sperker MrCarthy, Mr. Antonovich then led the Assembly in the pledge of allegiance to the Flag.

## READING OF THE JOURNAL DISPENSED WITH

By unanimous consent, reading of the Journal of the previous legislative day was dispensed with.

LEAVES OF ABSENCE FOR THE DAY
The following Members were granted leaves of absence for the day, because of illness:
Mr. Meade, on request of Speaker pro Tempore Papan
Mr. Nestande, on request of Speaker pro Tempore Papan
Mr Tucker, on request of Speaker pro Tempore Papan.

## COMMUNICATIONS

Assemhl, Chamber, Tune 12, 107:
Mr Speaker Pursunnt to your instructous, the (hef Clerk hay evamued.
Assembly Pill No 1
Assembly Bill Na. 8
Assemhly Bill No. 10
And reparts the same corractls engrossard.
JAMES D DRISCOIIL, Chief Clerk
Above bills re-referred to committee.

## AUTHOR'S AMENDMENTS

Committeg on Finance, Insurance, and Commerce
Asчpmbl) ('hamber, June 12. 1075
Mr. Speaker The Charman of sour Committee on Fimance, Iusurnnce, and Combserce repolth

Assembly Bill No 12
With author's amendments with the recommendition Amend, nad ip-refer to the Commattee on Finnuce, Instuance, and Commeree

MCATINTFR, (harman

Assembly Bill No. 12 -An act to add Article 7 (commencing with Section 11890) to the Insurance Code, relating to medical malpractice, and making an appropriation therefor

Bill read second time.

## Consideration of Author's Amendmenta

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

## Amendment 1

In hne 2 of the title of the printed bill, after the first "to", insert "Chapter 4 of Part 3 of Division 2 of".

Amendment 2
On page 2, line 2, after the first "to", insert "Chapter 4 of Part 3 of Division 2 of".

Amendment 3
On page 2, strike out lines 12 to 17 , inclusive.
Amendment 4
On page 2 , line 18 , strike out " (e)", and insert "(c)".

## Amendment 5

On pare 2, between lines 20 and 21, insert
"(d) "Board of directors" meams the board of directors of the State Compensation Insurance Fund.
(e) "Licensee" meates a person, corporation, facility, or institution luensed by, and operating within, this state to provide health care services as a plywrian, health care facility, dentist, registored murse, licensed practicni nurse, optomptrist, podiatrist, chiropractor, physical therapist, or paychologist, or an officer, employee, or agent thereof acting in the course or scope of his employment.
(f) "Phymidin" menns the holder of a plysician's and surgeon's certuficate
(g) "Ilealth care farcility" has the same meaning as that set forth in Section 1250 of the Hentth and Safety Code.
(h) "Inealth care" maim any act, or treatment performed or furmshed, or whelh should huve been performed or furnished, by any liepnsee for, to. or on behalf of a patient durmg the patient's medical eare, tredtment or confincment
(1) "Mrdsed malpractue insurance" means insurance coverage aramst loss, dmage, or expense inerdent to a claim arising out of the death or mjury of any person as the result of negligence or malpractice in rendermy of profensional merviers by a liennsee which oceurs during the protod in mharame poliey is in affere or against the expense of defending aty sut for mulpractice against a licenser.
(j) "Malpractwe" meank any tort or breach of contract on health rare or profemional berviecs rendered, or which should have been rendered, by a lixedres to a patient.
(k) "Manclyer" merms the manager of the recount appointed by the board of dreetors purvinnt to Section 11891.1."

## Amendment 6

On page 2, liue 25. strike out ", and"; strike out line 26; and in line 27, striki out "malpractuce against a heense or medical corporation'".

## Amendmant 7

On page 2, line 36 , strike out "fund", and insert "account".
Amendment 8
On pages 3, hime 22, strike out "the fund", and insert "it".

## Amendment 9

Ou paye 3 , hae $\mathbf{2} \mathbf{5}$, strike out 'ultmately'.

## Amendment 9.5

On page 3, line 25, after "self-supporting', insert "within five years after its creation'.

Amendment 10
On page 3 , line 30 , strike out 'fund", and insert "account".
Amondmant 11
On page 3, line 31, strike out "year", and insert "years".
Amendment 12
On page 3, line 32, strike out "It if", and insert "If it'".
Amendment 13
On page 3, line 33, strike out the first comma, and usert "and".
Amendment 14
On page 3 , lines 33 and 34 , strike out ", and a reasonable surplus for the catastrophe hazard", and insert "to cover future claims agamst licensees insured by the account'".

## Amendment 15

On page 3, line 36, strike out "or medical corporation'.
Amendment 16
On page 4, line 2 , strike out ' of the fund'.
Amendment 17
On page 4, line 5, after "insurer", insert "and subject to the same restrictions as any other insurer, except as otherwise provided by this article."

Amendment 18
On page 4, line 12, strike out "division'", and insert "article'".
Amendment 19
On page 4, line 20 , strike out "of the fund".
Amendment 20
On page 4, line 25, strike out "fund", and insert "account'".

## Amendment 21

On page 4, between lines 30 and 31, insert
"The board of directors shall appont a manager of the account and fix his salary. The manager shall manage and conduct the busmess and affairs of the account under the general direction and subject to the approval of the board of directors, and shall perform sideth other duties as the board of directors preseribe.

Before entermg the duties of the office, the manager shall quabify by gaving an official bond approved by the bonrd of directors, in the sum of fifty thousand dollars ( $\$ 50,000$ ) and by taking nond subseribing to an offical outh. The approval of the board shall be by written endorsement on the bond. The bond shall be filed in the office of the Secretary of State."

## Amendment 22

On page 4 , line 32 , strike out " of the fund"'.

## Amondment 23

On page 4, strike out lines 36 and 37 , and insert
"(b) Offer annuities covering medical malpractice settlements or judgments in excess of twenty-five thousand dollars ( $\$ 25,000$ ) against licensees insured by the areount.'

Amendment 23.1
On page 4, line 40 , strike out "or medreal corporation".

## Amendment 24

On prge 5, lme 3, after "malpractice", insert "settlement and"
Amendment 25
On page i, lue 4 , strike out "or medical eorporation'".

## Amendment 28

On page J. hane 5, strike out "fund", and insert "нecount".
Amendment 27
On page 5 , line 7, strike out "fund", and insert "nccount".

## Amendment 28

On page $\overline{5}$, line 30 , strike out "belong", and insert "belonging".

## Amendment 29

On page $\overline{3}$, line 2.) strike out '" in the fund, '"; st rike out line $\mathbf{2 6}$; and on lme ${ }^{2}$, strike out "statements,".

## Amendment 30

On page 5, lme 30, after "Aceount ", insert "No other moneys shatl be withictran from the account unless such vouchers and itemized statements as may be $e$ equmed by the Controller are premented.'

## Amendmant 31

On page 6, line 6, strike out " 16003 "', and insert " 925.6 '.
Amendment 32
 23 to 31, melumer, and meret "dine the State Tremsurer to invest all mones sin expen of current requirementy in serentifes sperefied in Siection 16430 of the Government (ode Tla board of directors may direst the State Treaturer to deponat such moners in mererst-bearing aceomats in state or nitional banks laving prinelpal offices in this state The boded of directom may altermatively regure the tramefer of sulh moners in the fund to the Surphen Money Tavestment Fund



## Amendment 33

 dhe rexard to the chathe riak menred by earh elass of licensee, as determued bs the board"

## Amendment 34

On page 7, strike out lines 6 and 7, and insert " number of malpractice settlements and judgments agamst a particular licensee insured.'"

On page 7, line 10, after "at", insert "then".

## Amendment 36

On page 7, line 12, strike out "The rates shall be"; strike out line 13 ; and in line 14, strike out 'plan.'"

## Amendment 97

On page 7, strike out lines 17 and 18, inclusive, and insert
"(c) T"o produce reasonable reserves to cover futnre clams against licensees insured by the account.

11893 The board of directors shall make an annual report to the Legislature on the operations and condition of the account The report shall include:
(a) The number and total amount of claims filed aganst licensees insured by the account.
(b) The number and total amount of judgments.
(c) The number and total amount of settlements reached out of court.
(d) The net amount collected by all daimants and the amount awarded in attorney's fees
(e) The premiums charged licensees
(f) The amount of dividends paid, if any.

All of these items shall be reported for the total of all licensees insured by the acconnt and for each class of licensee "

Bill' ordered reprinted, and to be re-referred to the Committee on Finance, Insurance, and Commerce

## ANNOUNCEMENTS

Speaker McCarthy was granted unanimous consent that the Committee on Finance, Insurance, and Commerce be permitted to hold a special meeting on Wednesday, Jume 18, 1975, at 1.30 p.m to hear Assembly Bill No. 34 and any holdover bills.

## ' RECESS

At 4:38 p.m, Speaker McCarthy declared the Assembly recessed
REASSEMBLED
At 4.46 p.m, the Assembly reconvened
Hon. Leo T. McCarthy, Speaker of the Assembly, presiding.

## AUTHOR'S AMENDMENTS

Committes on Judiciary
Asqumbl, Chamber. June 12, 1075
Mr Speaker . The Chnirman of sour Committee ons Judicitu ieports
Assemhly Bill No 1
Assembly Rill No 11
Asnembly Brll No 9
Ansemil: Bill No 2 :

With author's amendments with the recommendation Ament, and re-iefer to the Committee on Judiciary.

Assembly Bill No. 1--An act to amend Sections $125.5,2100,2101$, $2119,2361,2362,2364,23725,2436$, and 2454 of, to add Seertions 2100 J, 2100 6, $21007,21008.2101$ 5. 2101.6. 2122. 2361 3. 2372, and 2372.1 to, to add Article 11 (commencing with Sertion 800) to Chapter 1 of Division 2 of, to add Article 2.3 (rommencing with Seetion 2123) and Article 24 (rommencing with Section 2124 5) to ('hapter 5 of Division 2 of, to add Article 8.5 (commencing with Section 6146) to Chapter 4 of Divisiom 3 of, to repeal Sertion 2372 of, to repeal Article 11 (commencing with Section Nin) of ('ibupter 1 of Division 2 of, and to repenl Article 3.3 (commencing with Section 2123) of Chapter 5 of Divisun 2 of, the Rusilums and Professions Code: to amend Section 438 of, and to add Section :333: 1 to the Civil Corle, to amend Sections 340.5 and 1094.5 of and to add Section 6677 to, the Code of Civil Procedurf; and to add Sections 11587 and 11.588 to the Insurance Code, relatmg to health, and making an appropriation therefor.

Bill read second time

## Consideration of Author's Amendmente

The following Author's mmendinents, pursuant to the Assembly Rules, wore rend and adopted:

## Amondment 1

In line 14 of the fitle of the printed bill, as amended in Assembly June 11, 197., strike out the second "innd".

## Amendment 2

In line 1.5 of the title, after the comma, insert "and to add Chapter 5 (commencug with Section 364) to Title 2 of Part 2 of,".

## Amendmant 3

On page 13, line 17, after "resugution", insert "or' by voluntary "letion".

## Amendment 4

On page 15, line 40, strike out "thre'e", and insert "two'.

## Amendmont 5

On pare 16, lime 2, trike out 'two'. and insert "three'".

## Amendment 8

On page 16, strike out limen 13 to 94 . implasure, nend insert "Lifensing thall by Janury 1, 1977, ndopt and admmister atmadards for rontmang edachtom of suble ertifinte holders. The division shall require certificate holders to demonatrate sitisfaction of the rontmuing edueathen requmpents at intervals of not less than four nor more than six yeurs "

## Amandment 7

On pare 20, line 31, strik" out "Exmminers', and insert "Quality Assurance'.

## Amendment 7.5

On page 24, strike out lmes 6 to 10, inclusive, and insert "Quality."

## Amendment 8

On page 28 , strike out limes 24 to 29 , melusive.

On page 29, line 3, strike out "or therapentie".
Amendmant 10
On page 32, line 10, strike out ", nor shall", strike out lines 11 and 12; and in line 13, strike out "iccountable parties,"

Amendment 11
On page 32, line 20, strike out "Ten'", and insert ' Fifteen"
Amendment 12
On page 32, strike out lines 26 to 40 , inclusive; and on page 39, strike out lines 1 to 12 , inclusive, and mert
(b) A contract for attorney fees for representation of a plaintiff in any action specified in subdivision (a), and whith provides for rompensation under a contingeney fee arrangement, is woid unless such contract is approved by the court in which the action is pesiding. If the court disapproves such o contract and a judgment is recovered, the plaintiff's attorney fees shall be fixed by the court rendering the judgment Whenever a court fixes or approves attorney Pees pursuant to this subdivision, it may direct the judgment debtor to pay such fee directly to the attorney.

If periodic payments are awarded to the plaintoff pursuant to Section 6677 of the Code of Cival Procedure, the court shall place a total monthly value on these payments based upon the projected life expeotancy of the plantiff and melude this amount in romputing the total award from which attorneys' fees are ealeulated under this section

## Amondment 13

On page 33, line 19, strike out ", the terms", strike ont lines 20 to 40, inclusive; and on page 34, strike out limes 1 to 31 , inclusive, and insert " "recovered" means the net sum recovered after deducting any disbursements or costs incurred m commection with prosecution or settlement of the claim Costs of medieal care incurred by the plaintiff and the attorney's offle-overhead costs or charges shall not be deductible disbursements or costs for such purpose "

## Amendment 14

On page 36, strike out lines 10 to 34 , inelusive, and insert
" 33331 . (a) In the event the defendant so eleets, in an artion for personal injury against a provider of health eare services bised upon professional negligence, he mнy introduce evidence of any amount payable as a benefit to the plaintiff as a result of the posconal moury pursuant to the Umted States Soeral Serarity Act, any state or federal income disability or worker's compenation act, any health. sirkness or income disablity insuramere, aecident msurane that proxides health benefits or meome disability coverage, and any emontert or direement of any group, orguization, parthership, or corporation to provide. pay for, or reimburse the cost of mediedl, hospital. dentell, or other health care services Where the defendant rects to mtroduce such evidence, the plantiff may introduce evidence of any amome wheh the plamtiff has pad or contributed to secure his right to any inhineme bencfits concerning which the defendant hat mitroduced evidence and may ilso introduce evidence of insurance coverage of the defendant.

In determining the plaintiff's loss in any such action the jury, in a jury trial, or the court, in a court trial, may consider in mitigation thereof any sabstantial benefits introduced into evidence pursuant to this subdivision, but in so dong shall consider the extent to which the plaintiff has paid premums to obtain any insurance benefits"

## Amendment 16

On page 37, line 10, strike out "on or after the', strike out hnes 11 to 16, inclusive, and insert "three years after the date of injury or one year after the plantiff discovers, or through the use of reasonable diligence should have diseovered, the muly, wheheter occurs first This tone lonitation shall be tolled for either of the fullowing periods.
(1) Any period durang which such person has fanled to diselose any act, error, or omission upon which such action is based and whech is known or throngh the use of reasonable dhligence should have been known to him, but in no event for any period longer than five years after the date of the injury
(2) Any period durmg which the plaintiff has not discovered, or through the use of reasonable diligence would not have discovered, the presence of a foreign body in his person.

SEC 255 Chapter 5 (eommeneng with Section 364) 15 added to Title 2 of Part 2 of the Codie of Civil Procedure, to read -

## Cuapter 5 The Commibncement of Actions <br> Based Itpon Profescional Nefligence

364 (a) No action based upon the defemuldit's professional negligence, including, but not limited to, the negligence of a health facility licensed under ('hapter 2 (eommencurg with Section 12;0) of Division 2 of the Health and Safety Cole, may be commenced unless the defendant has been given 90 days' prior notice of the intention to commence the action
(b) No particular form of notive is recuired. but it shall notify the defentunt of the legal basis of the clam and the type of loss smstamed, inchudung with specificity the nature of the mjurien suffered
(c) The notwe may be served in the manner prewribed in Chapter 5 (commenemg with Section 1010) of Titip $1+$ of P'art 9
(d) If the notue is servel withm 90 dass of the expmation of the applieable statute of limitations, the time tor the commenemant of the action shall be evteuded 90 days from the service of the wotse
(e) The provismens of thas suctron shall not be appleathe with resperet to any defendant whose name is makown to the plantiff at the
 name, as prouuled un Sertion 474

365 Fallue to eomply with this chapter shall not inxalidate any proceedmgs of any court of this state, wor shall it affect the jurishiction of the court to remder a budrment therm Iloweser, falure to comply with such prosisions by any attorney-at-law hall be arounds for professiont deremplume and the state Bar of 'rifforma whall mvestigate and take appropriate action in any suld cases bronght to its attention "

## Amendment 17

On page 37, lines 21 and 22 , strike ont ", or at the request of either party shall,'".

## Amendment 18

On page 37, line 33, after the period, insert "As a condition to authorizing periodie payments of future damages, the court shall require the judgment debtor to post securnty adequate to assure full payment of all such danages awarded by the jndgment."

## Amendment 19

On page 37, line 39, strike out "The period of time may be"; strike out line 40 , and on page 38 , strike out lines 1 to 21 , inclusive, and insert "Such payments shall only be subject to termination in the event of the death of the judgment ereditor
(c) However, monev damages awarded for loss of future earnings shall not be reduced or payments termmated by reason of the death of the judgment ereditor, but shall be paid paid to persons to whom the - judgnent creditor owed a duty of support, as provided by law. immeduately prior to his death In such cases the court which rendered the orignal judgment, may, upon petition of any party in interest, modify the judgment to award and apportion the unpad future damages in decordance with this subdivision."

## Amendment 20

On page 38, line 23, strike out 'contingencies', and insert "oblipations'".

## Amendment 20.1

On page 38, line 25, after "cease", insert "and any sepuritry given pursuant to subdivision (a) shall revert to the judrment debtor".

## Amendment 21

On page 38 , line 27 , strike out ' , but is not limited to,".

## Amendment 22

On page 43 , line 40 , strike out "review insurance", and insert "renew insurance at prevailing rates".

Bill ordered reprinted, and to be re-referred to the Committee on Juderary.

Assembly Bill No. 9 -An act to add Chapter 8 (commenting with Section 465) to Dussion 1 of the Business and Irofessons (oode, to amend Section 3333 of, and to add Article 5 (rommenemg with Sertion 3361) to Chapter 2 of Tithe 3 of Part 1 of Dwmon 4 of, the ('ivil Code and to add Section 6675 to the C'ote of Civil l'rocedure, relating to meduchl malpractice, and making in appropriation therefor.

Bill read second tme.

## Consideration of Author's Amendments

The following anthor's amendments, pursuant to the Assembly Rules, were read, and hdopted:

## Amendment 1

In line 2 of the tatle of the promed bill, strike ont "to amend"; strike out limes 3 and 4 , and in line $\overline{5}$, strake out "the Civil Code".

## Amandment 2

On page 5, strike out lines 31 to 40 , inclusive; and on page 6 , strike out line 1 .

## Amendment 3

On page 6, strike out lines 32 to 40 ; strike out pages 7 and 8 ; and on page 9 , strike out lmes 1 to 25 , inchusive.

## Amendment 4

On page 9 , line 26, strike out "SEC. 6", and insert
"SEC 2".
Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

Assembly Bill No. 11-An act to amend Sections 11770, 11773, 11774, 11777, 11778, and 11779 of, to add Part 7 (commencing with Section 12700) to Division 2 of, and to add Division 46 (commenemg with Section 14000 ) to, the Insurance Code, relitung to medieal malpractice insurance. and makmg an appropriation therefor

Bill read second time.
Consideration of Author's Amendments
The following author's amendments, pursuant to the Assembly Rules, were read, and adopted

## Amendment 1

In line 2 of the title of the prmted bill, as amended in Assembly, June 10, 1975, after "add", msert "Section 18604 and"

## Amendment 2

Ou page 3, strike out line 1 , and insert
"SECTION 1 Section 18604 is added to the Tnsurance Code, to . read

18604 (a) Notwithstanding any provision of this chapter to the contrary, on the event of any ronfort between the provisom, of either (1) Chapter 4 (sommencing with Sertion 11770) of Part 3 of Division 2, (2) Part 7 (commenurag with Section 12700) of Division 2, or (3) Dusion 46 (commencing with Section 14000 ), with other provisions of this "ode. the provnoms of (1) Chapter 4 (wommenemg with Section 11770) of Part 3 of Division 2, (2) Part 7 (commenemge with Section 12700) of Dimion 2 and. (3) Dusson +6 (commenerug with Section 14000) shall preval over the powmons of ('lapter 9 (commenemg with Section 18.00) of Patt 2 of Duman 1
(b) The provimons of Section 18601 and $186 i 002$ of tha rode shall not be applicable to any provision of either (1) Chrpter 4 ("commencing with Section 11770) of Part 3 of Dinan g. (2) Part 7 (commenang with Section 12700 ) of Dusion 2, or (3) Dunion +6 (rommencong with Sertion 14000)

SEC. 15 Section 11770 of the Insmrance Code is'.

## Amendment 3

On page 3, line 6, itrike out "mednall malptactice".

Amendment 4
On page 5, line 21, strike out "medical malpractice", and insert "other".

## Amendment 5

On page 5 , line 32 , strike out "malpractice".

## Amendment 6

On page 5 , line '39, strike out "medical malpractice liabulity insurance", and insert "liabinty msurance related to any linbility of any health care provider resultug from providing or omotting health care".

Amendment 7
On page 6, lines 12 and 13 , struke out "medical malpractice".
Amendment 8
On page 6 , line 13 , strike out "medheal malpractice".

## Amendment 9

On page 6, line 14 , after "insurance", insert "related to the providing or omission of health care".

Amendment 10
On page 6, line 25, strike out 'malpractice'".

## Amendment 11

On page 6, line 25, after "insurance", insert "related to the provision or omission of health care".

Amendment 12
On page 6, between lines 31 and 32 . insert
"(d) "Medrenl hability" means any lidbulity for the provision or omission of health care."

Amendment 13
On page 6, line 39, after "divsion", msert "and are in conflict with this part".

Amendment 14
On page 6, line 38, strike out "malpructice".
Amendment 15
On page 7, line 22, strike out "malpuactice".
Amendment 16
On page 7, line $\mathbf{2 7}$, strike out "malpractice".
Amendment 17
On page 8, line 12, strike out "malpriduce".
Amendment 18
On page 8, line 22, strike out 'malpractice'".
Amendment 19
On page 9, line 17, itrike out "malpractice'.
Amendment 20
On page 9 , lime $9 \overline{5}$, strike out 'maly ractice'.

## Amendment 21

On page 10, line 1, strike out "certificate of" "

## Amendment 22

On page 10 , line 2 , strike out "malpractice".
Amendment 23
On page 10, line 10, strike out "MALPRACTICE".
Amendment 24
On page 13 , line 15 , after "elaim", insert "or controversy".
Amendment 25
On page 13 , between lines 24 and 25 , insert
" $(x)$ "Installment" means payment twice a month."
Amendment 26
On page 14, line 24 , strıke out "iusurance", and insert "the payment of compensation ".

## Amendment 27

On page 17 , line 10 , strike out "or", and insert a comma.
Amendment 28
On page 17 , line 11, after "facılity", insert ", or insurer".
Amendment 29
On page 19, line 19 , strike out "widow", and insert "spouse".
Amendment 30
On page 20 , line 16 , after the period, masert "No attorney's fees shall be more than 10 percent of the total monetary compensation paid to the injured."

Amendment 31
On page 22, line 13 , strike out "the loss,", strike out lines 14 to 23 , inclusive, and insert "any payment made by any ferloral or state ageuley."

## Amendment 32

On page 22, line 28, strike out "rompensation", and insert ", surgieal, and hospital treatment'".

Amendment 39
On page 22 , line 32 , strike out "drmageq", alld insert "eompensation'".

Amendment 34
On pare 23 , line 7 , strike out "within".
Amendment 35
On, page 23 , line 9 , strike out "From", and inocrt "Five years from".

## Amendment 36

On page 23, line 11, after "of'", msert 'additional".
Amendment 37
On page 23, lines 11 and 12 , strike out "up to five years".

Amendment 38
On page 23 , line 12 , strike out "the presentation", and insert "a showing".

## Amendment 39

On page 26, line 8, strike out "damages", and insert "compensation".

## Amendment 40

On page 26, line 29, after "injury", insert " $n$ nd the other requated members of the hearing panel as required by this divion".

## Amendment 41

On page 31, between lines 3 and 4 , msert
"(j) All decisions of the hearing panel shall be by majority vote"

## Amendment 42

On page 32, line 40, strike out 'superior eourt", and msert "Judicial Council'".

Bill ordered reprinted, and to be re-referred to the Committee on Judictary.

Assembly Bill No. 23-An act to add Chapter 12 (eommencme with Section 4950) to Dirasion 2 of the Busmess and Profensions Code, relating to niedical malpractice reports.

Bill read second time.

## Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted.

## Amendment 1

On page 5 of the printed bill, as amended in Assembly June 4 1975, strike out lines 37 to 40 , melusve, on page 6 , strike ont lume 1 and 2 and msert
" 4964 Any person who knowngly and willfully fal to sulmit a report as refured by Sections 4958 and 4961 is subject to uppopriato disemphars action by the remulatmin bourd of the health pofersion msolved $m$ the modent or oceurrence."

## Amendment 2

On pagre 7, line 20, after "Procedure", iusert ", or any other statute of limntation,"
Bill ordered reprinted, and to be re-referred to the commutter on Judiciary.

## ADJOURNMENT

 untul 11 a m. Freday, June 13, 1973.

LEO T Mec'ARTHY, Speaker
ANABEL FLELRY, Mmute Cleık

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

# ASSEMBLY DALLY JOURNAL <br> EIGHTEENTH LEGISLATIVE DAY TWENTY-SIXTH GALENDAR DAY <br> <br> IN ASSEMBLY 

 <br> <br> IN ASSEMBLY}

Assembly Chamber, Sacramento
Friday, June 13, 1975
The Assembly met at 2.47 p.m.
Hon. Leo T. McCarthy, Speaker of the Assembly, presiding.
Chief Clerk James D Driscoll at the Desk.
Assistant Clerk Ray Monday reading.

## ROLL CALL

The roll was called, and the following answered to their names- $\mathbf{7 6}$.

| Alatorre | Cline | Keene | Prpan |
| :---: | :---: | :---: | :---: |
| Antonovich | Collier | Keysor | Perine |
| Arnett | Craven | Knox | Prialo |
| Badham | Cuhen | Lancaster | Ralph |
| Bune | Davis | Lanterman | Robinson |
| Bannai | Deddeh | Lewls | Rosenthal |
| Berman | Dixon | Lockyer | Siegler |
| Bever ly | Duffy | MacDonald | Siproty |
| Boatwright | Exeland | Madids | Suitt |
| Eriggs | Fenton | Mealiuter | Thomas, Vincent |
| Brown | Forsn | Mclaenuan | Thomas, Wilham |
| Burke | Garamend | McVatte | Torres |
| Calvo | Goggin | Miller | Vawconcellos |
| Campbell | Grepme | Miohley | Vichnesa |
| Carpenter | Guaico | Montosa | Warren |
| Chacon | Hart | Mors | Wilson |
| Chappie | Hayden | Murphy | Warnum |
| Chel | Ingalis | Nentande | Z'berg |
| Chimbole | Kapiloff | Nimmo | Mr Spenker |

Quorum present.

## PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister :

Father, Help us to realize that You are the Father of all Your children, that You love none of them any less because of their location on this planet, or because of the pigmentation of then sknn, or the language they speak. Help us to strive for the unity of all mien; not just a political union, or a cultural mion, but a umon of love where we meet as brothers and sisters within the family of God.-AMEN.

## PLEDGE OF.ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr. Chel then led the Assembly in the pledge of allegiance to the Flag

MOTION TO DISPENSE WITH READING OF THE JOURNAL
Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr Nimmo, seconded by Mr MaeDonald.

## LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness.
Mr. Meade, on request of Speaker McCarthy
Mr Thurman, on request of Speaker McCarthy
Mr Tucker, on request of Speaker McCarthy.

## COMMUNICATIONS

Asqembls Chamher, June 13, 1975
Mr Speaker - Pursuant to your instructions, the ('hief Cleik has examined

Assembly Rill No 9
Assembly Bill No 12
And reports the same correctly engrossed.

Assembly Bill No $\mathbf{2 3}$
Assembly Bill No 1

JAMES D DRISCOLIL, Chief Clerk
Above bills re-referred to committee.

## AUTHOR'S AMENDMENTS Committee on Heal\$h

Assembl) Chamber. June 13, 1975
Mr Speaker The Chairman of yonr Commitee on Health reports .
Assemhly Bill No 4
With author's amendments with the recommendation Amend. and re-refer to the Committee on Health.

Assembly Bill No. 4-An act to add Division 18 (rommencing with Section 22000) to the Health and Safety Code, relating to health, and making an appropration therefor.

Bull read second time.

## Consideration of Author's Amendmants

The following author's amendments, pursuant to the $\Lambda$ ssembly Rules, were read, and ndopted :

## Amendment 1

On page 3, line 11 of the printed bill. after "homes", insert "and other long-term "are facilities".

## Amendment 2

On page 3, line 12, strike out "Medi-Care and Medı-Catd programs', and merert "programs established pursuant to Titles XVIII and XIX of the Sowid Securnty Act'.

## Amendment 3

On page 3, line 23, strike out "the Chiropractic Initiative Act,".

## Amendment 4

On page 4, lines 3 and 4, strike ont "and doctors of chiropractic".
Amendment 5 .
On page 4 , line 5 , strike out "all".
Amendment 6
On page 4, between lines 6 and 7 , insert
"(e) To establish gudelines and procedures, whereby throngh education, chucal experience and certification exammations, a professional provider, holding a license under one categorv of licensure, may obtam a lue

## Amendment 7

On page 4. limes 30 and 31 , strike ont "or the Chiropractic Initiative A.t'", and imert "and other health practitumers, medudng X-ray technicuans and paramedus, but excludng dentists and veterinarians"'.

## Amendment 8

On pagé 5 , lme 7 , strike out "five", and msert "seven'.
Amendment 9
On page 5, line 7, strike out "four", and insert "six".

## Amendment 10

On page 5. line 9, strike out "Members", strike out lines 10 to 14 , inclusive, and in line 15, strike out "basce", and insert
"The board shall be composed as follows
(a) Three of the members shall be physicuans and surgeons lueensed in Cahforma for at least five years but ant longer than 15 years, one of whom shall be engaged in actave practice in a surgreal spermity one
 and one of whom thall be well qualified by reason of trammg and experience in bromedial resedrch
(b) One of the members shall be a public health nurse lieensed in Cahforma for at least five year but monger than 1.5 years
(c) One of the nembers should be an active houpital didministrator
(d) Two of the members shall be well qualifed by teason of trammg and experame on clmeal mactice, health semues education and biomedecal resedrch to review the findings of the office with respect to adequacy of practice for genetal and spectidty care on inpatient and outjadtient bises."

## Amendment 11

On page 5 , line 20 , strike out the third "two", and insert "four".

## Amendment 12

On page 5, lme 24, after the period, insert "Members appointed to fill a vacancy on the board shall serve for the remainder of the unexpired term."

## Amendment 13

On page 5 , between lines 24 and 25 , insert
" 220301 No member of the board shall during his or her term of office engage in any other employment or shall aequire or have any financial interest in any entity engaged in the provision of health care.
22030.2 Five members of the board shall constitute a quorum for the transaction of business of the board and actions of the board shall be taken by a majority of the members present, except us otherwise provided in this division

220303 The board shall appoint a department secretary who shall be exempt from civil service The department secretary shall perform such duties and manage the day-to-day affairs of the board, as directed by the board Subject to the provisions of Part 2 (commencmg with Section 18500) of Division 5 of Title 2 of the Government Code, the board may employ hearing officers, techmical experts, and such other employees as may be necessary, in the judgment of the board, for the conduct of the business of the board Hearing offleers employed by the board shall be attorneys at law admitted to practice before the courts of this state
22030.4. The board may adopt, and from time to time amend or repeal, rules and regulations for the adminastration of this division, in accordance with the provisions of Chapter 45 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code "

## Amendments 14-15

On page 5, strike out lines 37 to 39 , inclusive, and insert
"(d) The development of guidelmes and procedures whereby, through continuing education and certification examinations, professional providers may obtain licensure under more than one licensure category
(e) The review of experimental work force projects and their incorporation into the approprate gudelines as provided in this division "

## Amendment 16

On page 6, line 2, after 'providers'", insert ", in consultation with the appropriate licensing boards and agencies'".

Amendment 17
On page 6, line 21, after "office", insert "pursuant to Section 22032'.

## Amendment 18

On page 6, line 33, after the period, insert "The licensing boards shall implement and enforee such requirements."

## Amendment 19

On page 6, line 34 , after "service", insert 'providers'.

## Amentment 20

On page 6, lines 37 and 38 , strike out "basis of staffing, equipment, and facilities", and insert "capacity to provide an adequate treatment pattern'.

## Amendment 21

On page 7, line 7, strike out "'uahfientions', and insert "performance of functions'.

## Amendment 22

On page 7, line 12, strike out "Notwithstanding other", and strike out hes 13 to 18 , melusive

## Amendment 23

On page 7, line 21, strike out "Medl-Care and Medi-Cald", and insert "Titles XVIII and XIX".

## Amendment 24

On page 7, between lines 33 and 34 , insert
"22039 Exeept as miry otherwise be provided by law, each person or institution who, at the time this division becomes effective, holds a heense ds a profescional or institutional provider, shall be deemed certified under the provisions of this division, to the full scope of practice nuthorized by tlis license, untal sach tome as the provider is otherwise certified by this office

29040 Notwithstandmg other provisions of law, no Lability insurer admitted to transact hability underwriting m this state may prowde such mourance to any applarant apanst loss dur to a malpractice judgment for aspects of professiousal practice whech are not certified by the offiee as withon the comprtenee of the appleant

22041 The office shall, withen five verars of the effective date of this act, certify each professional and mstitutional provider licensed by the state to the scope of practue whuch the oftice determumes to be insurable by reason of the qualifications and experiencer of the applcant

22042 The office shall establsh procedures for applation for certification as to the seope of practice Suld procedures may mutude a writen exammation and hall make use. to the maxmum extent practiedble of the standads and gudehnes developed by the vanous mational specialty boards and the profesmond standard review orgimazatoons operating withen the State of Cahturna

220421 The ground for denving of hmiting the seope of certification shall melude, but mot be hunted tos, all promids for whel hecessure in that celegory mas be denied, revoked, or suspmaded

220422 Complanee be a prowder with the norms, standads, and eriteria or other requirements of a photessimal htandards revew orgamzation operatmg in an area whela sad provider practices or
with any other requirements of Titles XYIII and X1X of the Social Security Act may be included m a review of a provider's practice.

22044 Every person holding a certıficate issued herem shall have it registered m the office of the county clerk of every county in which he is practicing his profession The fact and date of registration shall be endorsed on the certificate by the county clerk registering the same

22045 Any determmation that any professional or institutional provider of health care is engaging in practice which does not meet the standards of competency or is beyond the scope of practice to which said provider is certified shall be conducted in accordance with Chapter 5 (commencmg with Section 11500) of Part 1 of Division 3 of Thitle 2 of the Government Code and the board shall have all the powers granted therem

22046 Any person who has been denied a certificate shall be entitled, before such denial is find, to a hearing in accordance with Chapter 5 (commencmg with Section 11500) of Part 1 of Division 3 of Title 2 of the Government C'ode
22047. Any person aggrieved by a determination by the board with respect to eertification or licensure may commence an action pursuant to Section 10045 of the Code of Civil Procedure in the superior court of the county in which the person resides within 90 days after the determmation of the board becomes final.

22048 If the office determines as herein provided that any profes. sional or institutional provider of health care is engaping in practice which does not meet the standards of competency adopted by the offlee, or is beyond the scope of practice certfied by the office for that provider, it shall so inform the appropriate hicensing board or agency, which shall, within 60 days of recelpt of notification, appropriately restrict the scope of the provider's license The determination of the offlee is conclusive and may not be modified, revoked, or redetermined by the licensing agency."

## Amendment 25

On page 8 , between lines 32 and 33 , insert
"The Director of Health shall formulate a plan for the creation of a Medical Vuctims' Compensation Fund to pay medical costs of patients who have been damaged by prosiders who have excepded the scone of their certification or heensure and who are therefore uninsurable, which plan shall be meluded in the report"

Bill ordered reprinted, and to be re-referred to the Committee on Health.

## Hon. Julian C. Dixon Preaiding

At 2.48 pm , Hon Julan C. Dixon, 49th District, presiding.

Mr Speaker Foul Committee on Tulheiary reports.
Aswemblv Bill No. 1
With amendments with the recommendation Amend, do piss, as amended, and be re-referred to the Commuttee on Wais and Means

MILLER, Charman
Above bill ordered to second reading

## REQUEST FOR UNANIMOUS CONSENT TO TAKE UP ASSEMBLY BILL NO. 1

Mr. Keene was granted unamimous consent to take up Assembly Bill No. 1, without reference to file, for the purpose of readmg the bill a second time and adopting the committee amendments at this time.

## Socond Reading of Assembly Bill No. 1 by Unanimous Consent

Assembly Bill No. 1-An act to amend Sections 125 5, 2100, 2101, 2119, 2361, 2362, 2364, 2372.5, 2436, and 2454 of, to add Sections 2100.5 , $21006,21007,2100.8,21015,21016,2122,23613,2372$, and 2372.1 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Artucle 23 (commencing with Section 2123) and Article 24 (commencmg with Section 21245) to Chapter 5 of Division 2 of, to add Article 85 (rommencing with Sertion 6146) to Chapter 4 of Division 3 of, to repeal Section 2372 of, to repeal Artucle 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 23 (commenesug with Section 2123) of Chapter 5 of Division 2 of, the Busumess and Professions Code, to amend Section 438 of, and to add Section 33331 to the ('ivil Code, to amend Sections 3405 and 10945 of, to add Section 6677 to, and to add Chapter 5 (commensing with Seetion 364) to Titie 2 of Part 2 of, the Code of Civil Procedure, and to add Section 11587 and 11588 to the Insurance Code, relating to health, and making an appropriation therefor

Bill read second time.
Consideration of Committee Amendments
The following amendments, proposed by the Committee on Judiciary, were read, and adopted:

## Amendment 1

On page 9, line 6, of the printed bill, as amended in Assembly June 12, 1975, strike out "save for the", strike out lmes 7 to 10, melusive; and in lime 11, strike out "dscephuary action,".

## Amondment 2

On page 28 , line 12 , strike out "vetermarian'".

## Amendment 3

On page 33, strike out lines 4 to 10 , inclusive.
Amondment 4
On page 33 , line 26 , after the comma, insert "the time for the commencement of action shall be".

Amendment 5
On page 36 , line 19 , strike out the first "paid"
Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means.

ADJOURNMENT
At 249 p.m, Acting Speaker Dixon declared the Assembly adjourned until 9 a m , Monday, June 16, 1975.
LEO T. McCARTHY, Speaker
ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAlLY JOURNAL

## NINETEENTH LEGISLATIVE DAY TWENTY.NINTH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento Monday, June 16, 1975
The Assembly met at $12 \cdot 58$ p.m.
Hon Leo T McCarthy, Speaker of the Assembly, presiding. Chief Clerk James D Driscoll at the Desk.
Assistant Clerk Ray Monday reading.
ROLL CALL
The roll was called, and the following answered to their names-77:

| Alatorre | Collier | Kestor | Perino |
| :---: | :---: | :---: | :---: |
| Antonovich | Cratern | Knov | Priolo |
| Arnett | Cullen | Lancoster | Rulph |
| Bailham | Dasis | Lanterman | Robinson |
| Bane | Dedcleh | Lewis | Rosenthal |
| Bannai | Drson | Lochier | Sipgler |
| Berman | Duft | Maeldonald | Sieruty |
| Beterly | Egeland | Madils | Shutt |
| Boatwright | Fenton | McAlinter | Thomas. Yancent |
| Brigk | Foran | Mclatinnn | Thomas, William |
| Brown | Garamendt | Mevitte | Thurman |
| Burke | Goghin | Miller | Torres |
| Calso | Grepe | Slobley | Vasconcellos |
| Camplell | Gualeo | Alontosa | Vicencia |
| Carpenter | Hart | Mors | Warren |
| Chacon | Hayden | Murphs | Wilmon |
| Chappie | Ingallm | Nestande | Wornum |
| Chel | Kapuloff | Nimmo | Z'herg |
| Chimbole | Keene | Papan | Mr. Supaker |

Quorum present.

Upon invitation of Speaker MeCarthy, the following prayer was offered by Father Val Fegondea, Pastor of St Elisabeth's Catholic Church:

Go Beforc Us, OLord, We ask You, in all our doings with Yonr gracious inspiration, and further us with Your continual help, that every prayer and work of ours may begin from You, and by You be duly ended.

Give Your Holy Spirit to these Your servants here assembled in the interests of our state government that in all their doungs they may merit the high confidence which their constitnents have rested in them, and that this state may be well and peaceably governed, and that we, the people, may enjoy the richest blessmgs which You prepared for all who love You.-AMEN.
pledge qF allegiance to the flag
Upon request of Speaker MeCarthy, Mr. Suitt then led the Assembly in the pledge of allegance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL.
Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr Calvo, seconded by Mr Hayden.

## LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness.

Mr Tucker, on request of Speqker McCarthy.
The following Member was granted leave of absence for the day, on personal business, and desired to waive his per diem.

Mr. Meade, on request of Speaker McCarthy.
COMMUNICATIONS
Assembl, Chamher, June 16, 1975
Mr Speaker Pusiunt to $y$ our instructions, the Chef Cleak bas eammaned -
Assemblv Bull No. 1
Assembly Bill No 4
Asaemhil Bill No 11
And reporta the same cori ectly engrossed.
JAMES $B$ DRISCOLIL, Chief Clerk
Above bills re-referred to committee.

> INTRODUCTION, FIRST READING, AND REFERENCE OF ASSEMBLY BILLS

The following bill was introduced, read the first time, and ordered held at the Desk.

Assembly Bill No. 35: By Assemblyman Thurman-An act to add Section 141104 to the Welfare and Institutions Code, relating to MediCal , and declaring the urgency thereof, to take effect immediately.

## REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bill was referred to committee:

Assembly
Bill No.
Committee
35
Health
ADJOURNMENT
At $12: 59$ p.m., Speaker McCarthy declared the Assembly adjourned until 1 p m, Tuesday, June 17, 1975.
LEO T. McCARTHY, Speaker
ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAlLY JOURNAL

TWENTIETH LEGISLATIVE DAY THIRTIETH CALENDAR DAY<br>IN ABSEMBLY

Assembly Chamber, Sacramento Tuesday, June 17, 1975

The Assembly met at $7 \cdot 54 \mathrm{pm}$
Hon Leo T MeCarthy, Speaker of the Assembly, presiding. Chief Clerk James D Driscoll at the Desk.
Assistant Clerk Ray Monday reading.
ROLL CALL
The roll was called, and the following answered to their names-78:

| Alatorre | Collier |
| :---: | :---: |
| Antonovich | Crasen |
| Arnett | Cullen |
| Badlum | Davis |
| Bane | Deldeh |
| Bannai | Dison |
| Berman | 'Duffy |
| Bevels, | Egelami |
| Bontwright | Fenton |
| Briges | Foran |
| Brown | Garamend |
| Butse | Gosgin |
| Calvo | Grepme |
| Camphell | Ginaleo |
| Catpenter | Hart |
| Chacon | Hayrlen |
| Chappre | Ingnils |
| Chel | Kinpiloft |
| Chumbole | Kepne |
| Clune | Kes sor |


| Knos | Perino |
| :---: | :---: |
| Lancaster | Priolo |
| Lanterman | Ralph |
| Lewis | Rolunsor |
| Lockjer | Rosenthal |
| MacDonald | Slegler |
| Mada, | Sleroty |
| McAlister | Suitt |
| Meltpmnan | Thomns, Vincent |
| McVitte | Thomas, William |
| Minale | Thurman |
| Miller | Torres |
| Mobley | Vacconcellas |
| Montoya | Vicencia |
| Mori | Werren |
| Murphy | Wulson |
| Nestande | Wornum |
| Nimmo | Z'berg |
| Papan | Mr Speaker |

Quorum present.

## PRAYER

Upon invitation of Speaker MeCarthy, the following prayer was offered by Reverend John Folmer of Immaculate Coneeption Church-

God of the Thinerse, We pause a moment to eonsider that the history and the future of our world and of our lives rests in Your loving hands Encourage us to see the goodness and the beaty of Your creation and of our existence as we ponder our problents and develop their solutions. Grant that whatever we may accomplish will reflect and foster the beauty, vitality, and geodness of Your world and enrich the human quality of our lives.-AMEN.

## pledge of allegiance to the flag

Upon request of Speaker MuCarthy, Mr. Hayden then led the Assembly in the pledge of allegiance to the Flug.

MOTION TO DISPENSE WITH READING OF THE JOURNAL
Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Calvo, seconded by Mr Beverly.

## LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr. Tucker, on request of Speaker McCarthy.

## REPORTS OF BTANDING COMMITTEES Committee on Ways and Means

Axpemily, ('hamber, June 17, 1975
Mr. Speaker ' Your Committee on Wasn nud Meabs repolts.
Assembly Bill No 1
With amendments with the recommendition: Amend, and do pasa, ns amended
FORAN, Chmirman
Above bill ordered to specond reading
JOINT RULE 62(a) WAIVED
Mr. Foran was granted unammous consent that Jomt Rule 62(a) be waived for the purpose of setting Assembly Bill No. 10 for hearing in the Committee on Ways and Means.

## REQUEST FOR UNANIMOUS CONSENT TO TAKE UP ASSEMBLY BILL NO. 1

Speaker MeCarthy was granted unanımous consent to take up Assembly Bill No. 1, without reference to file, for the purpowr of reading the bill a second time and adopting the committee amendments at this time.

## Second Reading of Assembly Bill No. 1 by Unanimoue Consent

Assembly Bill No. 1-An act to amend Scctions 1255, 2100, 2101, $2119,2361,2362,2364,23725,2436$, and 2454 of, to add Sections $2100.5,2100.6,21007$ T, $21008,21015,2101.6,2122,23613,2372$, and 2372.1 to, to add Article 11 (commencing with Section 800) to Chatpter 1 of Division 2 of, to add Article 23 (commencing with Section 2123) and Article 2.4 (commencing with Section 2124.5) to Chapter 5 of

Division 2 of, to add Article 85 (commencing with Section 6146) to Chapter 4 of Division 3 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 23 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code; to amend Section 438 of, and to add Section 3333.1 to the Civil Code, to amend Sections 340.5 and 1094.5 of, to add Section 667.7 to, and to add Chapter 5 (commencing with Section 364) to Title 2 of Part 2 of, the Code of Civil Procedure; and to add Sections 11587 and 11588 to the Insurance Code, relating to health, and making an appropriation therefor.

Bill read second time.
Consideration of Committee Amendments
The following amendments, proposed by the Committee on Ways and Means, were read, and adopted:

## Amendmant 1

In line 2 of the title of the printed bill, as amended in Assembly June 13, 1975, strike out "and 2454", and insert " 2454 , and 2458".

## Amendment 2

On page 27, between lines 7 and 8 , insert
"SEC. 24.1. Section 2458 of the Business and Professions Code is ahended to read:
2458. The amount of fees and refunds prescribed by this chapter in connection with physicians and surgeons certificates, certificates to practice podiatry, certificates to practice midwifery, and certificates of drugless practitioners is that fixed by the following schedule:
(a) The fee for each applicant for a certificate by written examination, unless otherwise provided in this chapter, shall be fixed annually by the board at an amount not to exceed one hundred dollars ( $\$ 100$ ) nor less than fifteen dollars (\$15). If the applicant's credentials are insufficient or if he does not desire to take the examination, the sum of ten dollars ( $\$ 10$ ) shall be retained and the remainder of the fee is returnable on application.
(b) Each applicant for a certificate based upon a national board diplomate certificate, and each applicant for a reciprocity certificate, shall pay an application fee in the sum of ten dollars ( $\$ 10$ ) at the time his application is filed. If the applicant qualifies for a certificate, he shall be notified and, in addition to the initial license fee, shall pay a fee which shall be fixed annually by the board at a sum not in excess of one hundred dollars ( $\$ 100$ ) nor less than five dollars (\$5) for the issuance of the certificate.
(c) Each applicant for a certificate under Article 6 shall pay an application fee in the sum of ten dollars (\$10) at the time his applica tion is filed. If the applicant qualifies for a certificate, he shall be potified and, in addition to the initial license fee, shall pay a fee which shall be fixed annually by the board at a sum not in excess of forty dollars ( $\$ 40$ ) nor less than five dollars ( $\$ 5$ ) for the issuance of the certificate.
(d) The renewal fee chall be fixed by the beard at a oum tot in
 five dollars (\$75).
(e) The delinquency fee is ten dollars ( $\$ 10$ ).
(f) The duplicate certificate fee is two dollars (\$2).
(g) The endorsement fee is five dollara (\$5).
(h) The fee for issuanee of a duplicate certificate upon a change of name authorized by law of a person holding a certificate under this ehapter shall be two dollars (\$2).
(i) The initial license fee is an amount equal to the renewal fee in effect on the last regalar renewal date before the date on which the license is issued, except that if the license will expire less than one year after its issuance, then the initial license fee is an amount equal to fifty percent ( $50 \%$ ) of the renewal fee in effect on the last regular renewal date before the date on which the license is issued."

## Amendment 3

On page 38, strike out lines 17 to 22 , inclusive, and insert
"SEC. 29. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act."

Bill ordered reprinted, and to be returned to the second reading file.

## ADJOURNMENT

At 7:55 p.m., Speaker McCarthy declared the Assembly adjourned until 9 a.m., Wednesday, June 18, 1975.

LEO T. McCARTHY, Speaker
anabel fledry, Minute Clerk

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBIY DAlLY JOURNAL

# TWENTY-FIAST LEGISLATIVE DAY THIRTY.FIRST CALENDAR DAY 

## IN Assmmbly

Assembly Chamber, Sacramento
Wednesday, June 18, 1975
The Assembly met at $10: 18$ a m.
Hon. Louis J. Papan, Speaker pro Tempore of the Assembly, presiding.

Chief Clerk James D. Driseoll at the Desk.
Assistant Clerk Ray Monday reading.
ROLL CALL
The roll was called, and the following answered to their names-78:

| Alatorre | Collier | Knox | Perino |
| :---: | :---: | :---: | :---: |
| Antonoyich | Craven | Lancaster | Priolo |
| Arnett | Cullen | Lanterman | Ralph |
| Badham | Davis | Lew1s | Robineon |
| Bane | Deideh | Lockjer | Rosenthal |
| Bannai | Dixon | MacDonald | Sjegler |
| Berman | Dufly | Maddy | Sieroty |
| Beverly | Ebeland | McAlister | Suitt |
| Boatwright | Fenton | Melsennam | Tbomas, Yincent |
| Brigg | Foran | McVittie | Thomas, Willam |
| Brown | Garamendi | Meade | Tburman |
| Burke | Gogrm | Miller | Tortes |
| Calvo | Greene | Mobley | Vasconcellos |
| Campbell | Giunco | Montoya | Vienncia |
| Carpenter | Hart | Mors | Warren |
| Chacon | Hayden | Murphy | Wileen |
| Chappie | Iugalls | Nestande | Wornum |
| Chel | Kapilofif | Nimmo | Z'lserg |
| Chimbele | Keene | Papan | Mir. Speaker |
| Cline | Keymor |  |  |

Quorum present.
REGULAR BUSINESS DISPENSED WITH
By unanimous consent, the regular order of business of the Assembly was dispensed with for this legislative day.

## LEAVES OF ABSENCE FOR THE DAY

The following Member was pranted leave of absence for the day, because of illness:

Mr. Tucker, on request of Speaker pro Tempore Papan.

## COMMUNICATIONS

Aseemhly Chamber June 18, 1075
Mr. Speaker : Pursuant to sour inat ructumb, the © 'hef Clerk has examinet '
Astembly Bill No. 1
And reports the anme correctly engrossed.
JAMES D DRISCOJJ. Chef Clerk
Above bill ordered returned to sccond reading file.

## REPORTS OF STANDING COMMITTEES

Committee on Finance, Insurance, and Commerce
. Awembly (hamber, June 11, 1975
Mr, Bneaker: Your Committee on Finance, Inmirance, nul ('ommeree reports Assembly Bill No 2H
With amendments with the romommpalation Ameud, do pask, as ameniled, and be re-referred to the Commation on Winn mand Menam.

MeATISTER, Charman
Above bill ordered to second reading.

> CONSIDERATION OF DAILY FILE

ABSEMALY BILLS RETURNED TO BECOND READING FILE PUREUANT TO THE RULES
Pursuant to the Assembly Rules, the following Assembly bill was this day on the second reading file:

Aasembly Bill No. 1, ordered to third reading.

## special committee meetings

Speaker pro Tempore Papan was granted unammons consent that the Committee on Finance. Insurance, and Commerce be permitted to hold a special meeting on June 19, 1975, upon adjonrnment of the Assembly seasion, in Room 2170, to consider all bills from the regular and second extraondinary session which are held over from the June 18 meetmg of the committee.

Speaker pro Tempore Papan was granted unamimous consent that the Committee on Health be permitted to hold a special meeting on Monday, June 23, 1975, at $7: 30 \mathrm{p} . \mathrm{m}$, in Room 2133, to consider A.ssenbly Bills Nos. 2, 4, 5, 6, 31 and 35.

## RECESS

At 10:19 a.m., Speaker pro Tempore Papan declared the Assembly recessed.

## REASSEMBLED

At $\mathbf{2 : 4 5}$ p.m., the Assembly reconvened
Hon. Louis J. Papan, Speaker pro Tempore of the Assembly, presiding.

## AUTHOR'S AMENDMENTS

Committee on Health
Ansembly Chnmher. June 18, 1975
Mr Speaher The Chairman of wour Commattep on Health reporta:
Aspemilhs Rell No 2
Aznembly Bill No 5
Asnemblis Ball No 6
With nuthor's amendments with the recommenintion: Ampad, and me-refer to the Committee on Health.

KFEXF. Chairman
Assembly Bill No. 2 An act to nmend Sections 44118 and 1265.5 of, to add Part 5 (rommenring with Section 1199) to Division 1 of, to repeal Section 44211 of, and to repenl Part 15 (commencing with Section 437) of Division 1 of, the Health and Safety Code, relating to health services and farilities.

Bill read second time.
Conaideration of Author's Amondments
The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment 9
In line 1 of the title of the printed bill, as ammended in Assembly May 23, 1975, иfter "act", insert "to reperal Article $4 . \overline{\text {. }}$ (commeneing with Section 2176) of Chapter 5 of Division 2 of the Business and Professions Code; and".

Amoniment 2
In line 2 of the title, after "Part", insert " 4 (commencing with Section 1185) and Part'".

Amondment 3
In line 5 of the title, aftor "facelities', insert ", and making an approprintion therefor'.

## Amendment 4

On page 44. after line 39, mbert
"SEC 6 Artwle 4.7 (emumenemg with Section 2176) of Chapter 5 of Divsion 2 of the Businems and Professums Code is repented.

SEC 7. Part 4 (emmencmur with Section 1185) is added to Division 1 of the $I e_{\text {all }}$ th and Sufety ('ocle, to road.

## PART 4 OFFIC'E OF IIEAL,TH SERVICES DEVELOPMENT

## Chaptra 1 Thghiative Intent

118.5 The Lergisature finds that there is a maldistribution of health serviees mins thate. which ban a negative impact on the henith and safety of a sipmofieant vipmont of the poble.

It is the intent of the Leershature on enarting this part to extablish a profrim of health urruiem development in the State Departmont of Meditl to busure that hadth ervires are matie watiable to persons who presently do mot have arecos to them Where feasible, such program shall utilize peictuy hralth remourese and promote commanity-based health programs IInumpr. whese exinting prowices ure not adequate and where it is not framble to rapidly cotablabla aceptable eommunitybased prograus, the Lagivature find and deplares that it is the duty and obligation of the State Department of Health to arrange for or provide necrowry hedth wervices in underserved areas.

## Cíáptrr 2 Offtce of Health Services Development

1186. There is in the State Department of Health an Offlce of Health Services Development, which shall have responsibility for the following program elements of the state department:
(a) California Health Service Corps.
(b) California Rural Health Program.
(e) Medical Student Loan Program

It shall be the responsibility of the offlee to provide or arrange for the provision of health services in underserved areas of the state.

## Ceapter 3. California Health Services Corps

1187. The director shall establish in the Office of Health Services Development a California Health Services Corps The corps shatl consist of competent providers of health services, including physicians and surgeons, nurse practitioners, nurses, physician's assistants, dentists, dental hygienists, dental assistants, and such other health personnel as the director finds necessary to meet the purposes of the program.
1187.1. The director shail utilize the authority to establish health manpower pilot projects pursuant to Article 18 (commencing with Section 42970 ) of Chapter 2 of Part 1 of this division for achieving the purposes of this part.
1187.2. Members of the California Health Services Corps shall be assigned to areas in Californin where health services are currently inadequate. Assignments may be made by the department to the following categories of health service programs:
(a) Any nomprofit health facility or clinic
(b) Any health provider or group of providers
(c) Any state or county health program or facility.

However, the authority of any person to supervise any member of the corps shall be subject to approval by the director. The director may require, as a condition to the receipt of corps personnel, that any reimbursement received from patients by a facility or provider specified in subdivision (a) or (b) as a result of the services of a member or members of the corps assigned to it, which exceeds the salary paid by the facility or provided to a member of the corps, shall be transferred to the director for the purpose of funding the program anthorized by this chapter.
1187.3 The director shalt arrange for the provision of health services in underserved areas in California.
(a) By utilizing to the extent feasible, existing health resources
(b) By providing grants to nonprofit community-based health programs or by directly establishing offices and climes.
(c) By establishing or arranging for the establishment of transportation mechanisms which are appropriate to make health services accessible.

11874 The director shall, to the maximum extent feasible, integrate the health programs estableshed pursuant to subdivisions (a) and (b) of Section 1187.3 with health sciences education programs and, specifically, with medical internshups and residencies in family practice and other primary care specialties.

The director shall, in conjunction with the University of California, and the Secretary of the ITealth and Welfare Ageney pursuant to the provisions of Article 8 (eommencing with Section 31910) of Chapter 3 of Division 22 of the Education Code, establish medienl internships and resideneles as elements of Californid Health Service Corps and as elements of health programs receiving grants pursuant to Chapter 5 (commencing with Section 1189) of this part. It is the intent of the Legislature that the U'niversity of California cooperate fully with the director in decentraluang medical internship and residency programs and in integrating Calhfornia Henlth Services Corps assignmente into such programs.
1187.5 The director shall, to the extent feasible, coordinate efforts to provide loalth wirwes through the ("alifornia ILealth Services Corps with existing program resources, including migrant health program, Indian Health Program, the National Health Services Corps, and related programs in the state department.
1187.6. The director shall report to the Lapislature and the Governor by January 1, 1977, coneerning the extent to which physicians and other health persommel have volunteered to participate in the California Health Serviees Corps. In the penent the director determines that the number of volunters is inadequate to meet the needs of the program, he shall inchade in his report recommendations which consider the following alternative means of staffing the California Health Services Corps:
(a) Requiring participation in the corps for a specified period as a condition of heremure in a hating arts profession in California.
(b) Requiring participation in the eorps as a condition of participating in an mternship or residency program in Califormia.
(c) Requiring parturpition in the corps as a condition of entering a state-hupported medical schiool or uther health setences education program
(d) Requiring participatoon in the corps as a condition of licensure in a healing arts professon to a moncitizen.
(e) Conditionug partupation in exsting or new loan and scholarship programs upen parturepation on the eorps
(f) Charging health viipnece edhueation students all or a portion of the actual hate ereoth of trammg and requirug that suth costs be repand within a specified peraod or that the molividual participate in the corps.

Such report whall alon muclude all andysio of the extent to which the Triversty of ('ylforma has decentralized its greduate meducal traming programs and mtegrated them into the California Mealth Services Corps.

## Charter 4 Loans for Medicil Students

1188 The dircetor shall dedmister the program of loans for medical students, and shall adopt unch rules and regulations as are reasonably neeresury to carey cut the provisom of this chapter.

11881 The amount of ewh loan hlatl not "xered two thousand dollarn ( $\$ 2000$ ) tor an acadrmar ypar In any event, no student shall recenve more than enght thousind dollars ( $\$ 8,000$ ) in loans.
1188.2. There shall be at least 35 loans available each year. Only students enrolled in the doctor of medicine program of a medical school approved by the board and located in California, or students enrolled in a program approved by the Board of Medical Examiners pursuant to Section 2193.75 of the Business and Professions Code for supervised clinical training, are eligible for participation in the loan program.
1188.3. No person shall be awarded a loan under this chapter unless he complies with all of the following conditions:
(a) He is a resident of Califorma.
(b) He is enrolled in at least the second year of an approved doctor of medicine program in California, or is enrolled in a program of supervised clinical training established pursuant to Section 2198.75 of the Busmess and Professions Code, and has completed a resident course of medical instruction equivalent to that required in Section 2192 of the Business and Professions Code for applicants for a physicians and surgeons certificate in a medical school located outside the Unted States or Canada.
(c) He has complied with all the rules and regulations adopted pursuant to this chapter.
(d) He has agreed with the director to continue his education and training with the intention of practicing medicme in an area deficient in physician services.
(e) He has demonstrated his financial need according to written guidelines published by the director.
(f) He has agreed to participate in the California Health Service Corps for a period of two years
1188.4. Applications for loans shall be made to the state department, upon forms provided by it, at the times and in the manner presuribed by the rules and regulations adopted by the state department
1188.5. The state department shall award the loans to applicants which it determmes have the greatest financial need for such funds. The state department shall not award any loan to an applicant if it determines that the applicant has adequate financial resources to support himself and his famuly.
1188.6. The loan shall be repayable in equal or graduated periodic installments, according to a schedule agreerl upon by the state depurtment and the borrower, over a 10 -year period which shall begin three years after the student ceases to pursue a full-time course of study at a school of medicine, excluding from such 10-year period all periods, up to three years, of (1) active duty performed by the borrower as a member of the armed forces of the United States, or (2) nommilatary public service performed by the borrower which the state department finds to be in the public interest.
1188.7. Loans made pursuant to this ehapter shall not bear interest
11888. The liability to repay the unpaid balance of the loan shall be canceled upon the death of the borrower, or if the department determines that he has become permanently disabled and is unable to engage in substantial gainful activity.
11889. Where any person who has obtained one or more loans under this chapter engages in the practice of medicine in an area deficient in physicun services after completion of his participation in the California Health Service Corps, 50 percent of the total of such loans which are unpaid as of the date that such practice begins shall be eanceled thereafter for each year of surh practice
1188.10 The state department may assess a charge with respect to a loan made under this chapter for failure of the borrower to pay all or part of an installment when due and, in the case of a borrower who is entitled to a deferment under Section 1188.6 or cancellation of part or all of the loan under Section 11889 for any fallure to flle timely and satisfartory evidence of such entitlement. The amount of any such charge may not exceed two dollars (\$2) for each month by which such instalment or exidence is late, exeppt that there shall be no charge for the first month.

## Cgapter 5. Health Care for Rurat, and T'iderserved Areas

1189. The state department, through the Office of Health Services Development, shall -
(a) Develop gengraphir and demographic criteria for classifying areas and shall designate specific areas throughout the state as medically underserved areas aceording to such criteria, and, within such areas, determine and specify the most significant health delivery problems
(b) Utilizing areas and problems designated pursuant to subdivision (a), receive proposals and make grants for funding projects to develop and test alternative health care delivery models. Consideration shall be given to those projerts which make the greatest effort, utilizing clinical settings and regionalization, to develop and promote comprehensive health servuces in medirally underserved areas Proposals will be considered which address one or more of the following health issues:
(1) The health needs of migratory and other agricultural workers and their famelies, native American Indians, senior citizens, and identifiable groups within rural populations with particularly imsufficient access to adequate levels of health care services due to geographical isolation or economic factors.
(2) Primary health care, including preventative health services and diagnostic, treatment, referrnl, and follown services for usual common, acute, and chronic illnesses and conditions.
(3) Comprehensive health eare, including apecialized physieian services, inpatient and ontpatient farilities, laboratory and X-ray services, home health services, and other specialized services.
(4) Energeney medical systems designed to meet the special problems of rural isolation
(5) Transportation appropriate to achieving the goal of making health care services asalable to residents of the medically underserved areas.
(6) Electronic communeations technology to improve health care delisery and pmergency health services in the designated medically underserved areas.
(7) Eistablishment of regional health systems, including linkage with both rural and urban health programs and facilities.
(8) Improvement of the quality of medical care and the administrative capabilities of agencies and management systems in rural and other medically underserved areas.
(9) Health education programs in the designated medically underserved areas, including health and nutrition education, and continuing education for health professionals.
(10) Promotion of rural nurse practitioner programs and other programs for training and placement of health professionals in the designated areas to respond to rural manpower shortages
(11) Improvement of the quality of mental health services in medically underserved areas.
(12) Integration of the California Health Services Corps into existing health care delivery systems.

- No project shall exceed two years in duration and all projects shall be evaluated by the Office of Health Services Development with particular attention to the elements of access, cost, and quality of care, in the annual report to the Legislature, pursuant to subdivision (d) of this section. To the greatest degree possible, these projects shall strive to achieve self-sufficiency.
(c) Develop and submit, utilizing the Rural Health Plan for the State of California as developed by the state department, to the Legislature wathin one year after the effectuve date of this section a comprehensive state plan for improving the delivery of henlth care in the designated medically underserved areas of the state For purposes of development of the plan, the Office of Health Services Development may initiate research studies and reports, as well as uthlizing evaluations of rural demonstration projects The development of the plan shall take into consideration the planning efforts of comprehensive health planning agencies, and the planning efforts of other publac and private agencies.
(d) Develop and submit to the Legislature an annual report on the activities of the Office of Health Services Development, urluding demonstration project evaluation, ongomg efforts to mprove effective delivery of health care services in the designated medically underserved areas of the state, research studies and reports, and any recommendations to the Legnslature for further enabling legislation or funding for state or local programs necessary for the effective delivery of adequate levels of health care services in the designated medically underserved areas.
(e) Provide technical assistance and information to statewide and local, public, or private nonprofit agencies and organizations in establishing or conducting programs Such assistance shall include, but need not be limited to, grantsmanshp, consultation, plamming, evaluation, and spokesmanship at the state and local levels for rurd health needs.
(f) Serve as the focal point for coordination of state effor ts in rural health in order to maximize effective use of scarce medical resources.
(g) Receive and allocate funds from any public or private source. including funds made available pursuant to Section 247 d of Title 42 of the I'nited States Code, for the planning, demonstration projects, and technical assistance purposes set forth in this section. or for the general administration of this chapter.

1189 1. The Advisory Committee on Health Care for Rural and Other Medically l'uderserved Areas is hereby established in the department The committee shall be composed of seven members and shall advise and assist the Office of Health Services Development in the preparation of the health plan for rural and other medically underserved areas, the development of demonstration projects, and recommendations for legislative fetion.

Three members of the advisory committee shall be appointed by the Governor and shall be consumers selected from the following rural target populations: native Americans, senior citizens, low-income persons, Medi-Cal recipients, seasonal aqricultural workers, and other minorities.

Two members of the advisory committee shall be appointed by the Senate Rules Committee and two members ahall be appointed by the Speaker of the Assembly from the above specified target populations.

The members of the advisory committee shall plect a phairman from among the committee membership, who shall convene meetings as frequentiv as necessury to fulfill the duties of the committee.

The members of the advisory committee shall reseive no compensation for their serviees, but shall be reimbursed for their acturl, necessary traveling and other expenses incurred in the discharge of their duties
429.7. In order to accomplish the purposes of subdivision (f) of Section 1189, the Tuak Force on IYealth Care in Medically I'uderserved Areas is here established.
(a) Members of the task force shall include- a representative of the Department of Education with responsibilitr for programs relating to the health and edurution of migrant children; a represcutative of the Department of Employment Development with respmasibility in health manpower development ; a representative of the l'nited States Department of Mealth, Eduration, and Welfare woth respmaibility in rural health, a representative of the Tanted States Department of Labor with responsibilty in rural manpower developuent, and a representative of the luiversity of C'alifornia with experience in the development and staffing of rural heylth elunics. The following task foree members shall be chosen by the director a representatice of a rural hospital, a representative of a rural community clinic and a represpatative of a centralcity community clmir' ; a representative of a rural comprehensive bealth planing agency; a lochl health officer from a rural rounty; a physician in practue in a rural area and a physurian in practue in a central-city aren: $\boldsymbol{y}$ nurse in pratue in a rural area and a nurse in practue in a centralerty men; a unrse practioner m practior in a rural area and a nurse practitioner in practice in "rentral-city area, and a representative of an organtation reaponsible for rural lindman heulth
(b) The Task Force on Medically I'nderserved Archa shall meet at least four thmes per year or more frequently at the call of the director.
(c) The responsibilities of the task force shall be directed toward coordinating to the greatest deqree possible the rural health efforts of the organizations represented on the task force, for the purpose of maximizing the effective use of scarce meducal resources This shall include, but not be limited to, the sharing of information between represented organizations, the joint review process of grant requests recenved by represented organizations, and joint plannug efforts, to the maximum extent possible, to prevent duplication and to promote integration of programs.
429.8. The adequate staffing for the Office of Health Services Development shall be provided through a review and reassignment of existing manpower within the State Department of Health The department shall utilyze to the maximum extent possible the existing rural health expertise wathin the department To this end, the Farmworkers Unit of the State Department of Health shall be included in the Office of Health Services Development.

SEC. 8. The sum of three million dollars ( $\$ 3,000,000$ ) is hereby appropriated from the General Fund to the State Department of Health for use by the department for purposes of this act."

Bill ordered reprinted, and to be re-referred to the Committee on Health.

Assembly Bill No. 5-An act to amend Sections 125 5, 2100, 2101, 2119, 2361, 2362, 2364, 2372 5, 2436, and 2454, of, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, Sections $21005,-21006,21007,21008,21015,2122$ to, Artucle 23 (commencing with Section 2123) to Chapter 5 of Division 2 of, and Sections 2372, and 23721 to, and to repeal Artucle 11 (rommencing with Section 800) of Chapter 1 of Division 2 of, Artucle 23 (commencing with Section 2123) of Chapter 5 of Division 2 of, and Section 2372 of, the Bummess and Professions Code, relating to the healivg arts, and muking an appropriation therefor.
Bill read second time.
Consideration of Author's Amendments
The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

## Amendment 1

In the heading of the printed bill, after "Duffy", insert "and Select Committee on Medical Malpractice (Berman (Chairman), Deddeh, Greene, Hart, Keene, Maddy, and Warren)'

Amendment 1.5
In line 1 of the title, after " 2361 ", msert ", 23615 ".

## Amendment 2

In line 2 of the title, strike out "and 2454 '", and insert " 2454 , and 2458'.

Amendment 3
In line 6 of the title, strike out "and 2372.1", and insert " 2372.1 , and 2458.5'.

## Amandment 4

In line 9 of the title, after "Code," insert "and to add Section 141325 to the Welfare and Institutions Code, ".

## Amendment 6

On page 4, line 21, after "settlement", insert "or arbitration award".

Amendment 6
On page 4, line 27. after "thrreto", insert "or within 30 days after service of such arbitration award on the parties'.

## Amendment 7

On page 5, line 8, after "thereto", insert ", or 30 days after service of such arbitration award on the parties".

## Amendment 8

On page 5, line 15 , after "agreement", insert "or service of such arbitration award on the parties".

## Amendment 9

On page 7, strike out lines 38 to 40 , inclusive ; strike out page 8 ; and on page 9 , strike out lmes 1 to 5 , nelusive

## Amendment 10

On page 9, line 27, after "violation", insert ", such petition may be filed by the Division of Medacal Quality Review, the Division of Alhed Professions, or a medical quahty review committee".

## Amendment 11

On page 12, line 7, after "Nursing " insert "One of the public members shall be a lirensed attorney who shall meet the qualifications of Section 450 and who shall not maintain a chent. emplovee, or customer relationship with any health procider or health facility which constatutes more than one-half percent of the emplovment or practice of that member of the board."

## Amendment 12

On page 12 , strike out line 39 , and in line 40 , strike ont "majority of a minimum quorum within", and msert "the members of".

Amendment 13
On page 13, between lines 17 and 18 . incert
"The division may ptablah advisory commottees to assist it in establishing a program to insure the coutinuing pompeteney of physichas In developing such recommendations the disision shall consider the effect of mandatory prograns on the ablity of physecans and surgeons to provide service in underserved areus"

## Amendment 14

On page 17, line 22, strike out 'by the board, including, but'".

## Amendment 15

On page 17, strike out liue 23.

## Amendment 16

On page 17, line 26, strike out "and 2361 ', and insert ", 2361, and 2361.5".

Amendment 17
On page 18, strike out lines 10 to 14 , inclusive, and insert "Quality."

## Amendment 18

On page 18, line 24, strike out "and to report"; strike ont lines 25 to 27, melusive, and insert " Investigation shall be commenced within 15 days and completed within six months A progress report shall be issued to the complainant within 30 days of the initiation of the investigation. Once an investıgation has been completed, the Attorney General shall file an accusation with a committee within 30 days A hearing shall be held by a committee or a panel of a committee within 30 days of the fling of an accusation A decision shall be rendered by a committee or panel of a committee within 30 dars after commencement of hearing."

Amendment 19
On page 19, line 23, strike out "board", and insert "Division of Licensing and Examination'".

## Amendment 20

On page 19. between lines 28 and 29 , insert
"21244 Each medical quality review committee shall be staffed by at least one medical consultant and suffiement competent investigators from the Division of Investigation of the department as are necessary to carry out the purposes of this article The investigators so utilized shall be specially trained to investigate medien practices activities."

## Amendment 21

On page 20, between lines 12 and 13 , msert
"SEC. 165 Section 23615 of the Business and Professions Code is amended to read:

23615 Clearly excessive prescribing or administering of druge or treatment, use of diagnostic or therapeutic procedures, or use of diagnostic or treatment facilities which are detrimental to the patient, as determined by the customary practice and standards of the local community of licensees, is unprofessional conduct within the meaning of this chapter in addition to other matters acfined as unprofessional conduct in this chapter.

## Amendment 22

On page 20, line 15, strike out "Licensing and Edacation", and insert "Medical Quality Review".

## Amendment 23

On page 20 , strike out lines 21 to 25 , inclusive.

## Amendment 24

On page 23, line 6, after "chapter ", insert "Renewal fees collected from physucians and surgeons pursitant to Section $2458 . \overline{\mathrm{s}}$ (d) may be used for the admmistration of this act, including, but not limated to:
(a) The admmstration of guality review programs.
(b) The admmistration of contmuing education programs.
(c) Other purposes designated by the Legislature relating to medical education."

## Amendment 25

On page. 23, between lines 6 and 7, insert
"SEC 242 Section 2458 of the Business and Professions Code is amended to read:
2458. The amount of fees and refunds preseribed by this chapter in comnection with thysteinm atad surgens eextffenter, certificates to practice podiatry, certificates to practice midwifery, and certfficates of drugless practitioners is that fixed by the followng schedule:
(a) The fee for each applicant for a certificate by written examinatron, unless otherwise provided in this chapter, shall be fixed annually by the board at an amount not to exceed one hundred dollars (\$100) nor less than fifteen dollars ( $\$ 15$ ) If the applicant's credentials are insuffienent or if he does not desire to take the examination, the sum of ten dollars ( $\$ 10$ ) shall be retamed and the remaiuder of the fee is returnable on application.
(b) Each appheant for a certificate based upon a national board diplomate certificate, and each applicant for a reciprocity certificate, shall pay an application fee in the sum of ten dollars ( $\$ 10$ ) at the time his application is filed If the applicant qualfies for a certificate, he shall be notified and, in addition to the mitial license fee, shall pay a fee which shall be fixed annually by the board at a sum not in excess of one hundred dollars ( $\$ 100$ ) nor less than five dollars ( $\$ 5$ ) for the issuance of the certificate.
(c) Each appleant for a certificate under Article 6 shall pay an application fee on the sum of ten dollars ( $\$ 10$ ) at the time his application is filed If the applicant qualifies for a certificate, he shall be notified and, in addition to the initial license fee, shall pay a fee wheh shall be fixed annually by the board at a sum not in excess of forty dollars ( $\$ 40$ ) nor less than five dollars (\$5) for the issuance of the certificate.
(d) The renewal fee shall be fixed by the board at a sum not in excess of forty dollars ( $\$ 40$ ) nor less than four dollars ( $\$ 4$ )
(e) The delinquency fee is ten dollars ( $\$ 10$ )
(f) The duplicate certificate fee is two dollars (\$2)
(g) The endorsement fee is five dollars (\$5)
(h) The fee for issuance of a dupheate certificate upon a change of name suthorized by law of a person holding a certificate under this chapter shall be two dollars ( $\$ 2$ ).
(1) The mital license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, exeept that if the heense will pxpire less than one year after its issuance, then the intul heense fee is an amount equal to fifty percent ( $50 \%$ ) of the renewal fee in effect on the last regular renewal date before the date on which the lieense is issued
SEC 244 Section 24585 is added to the Business and Professions Code, to read -

24585 The amount of fees and refunds prescribed by this chapter in connection with plysicians and surgeons certificates is that fixed by the followng schedule.
(a) The fee for each applicant for a pertsficate by written examination, unless otherwise provided in this chapter, shall be fixed annually by the board at an amount not to exceed one hundred dollars (\$100)
nor less than fifteen dollars ( $\$ 15$ ). If the applicant's credentials are insufficsent or if he does not desire to take the exammation, the sum of ten dollars ( $\$ 10$ ) shall be retamed and the remainder of the fee is returnable on application.
(b) Each applicant for a certificate based upon a national board diplomate certificate, and each appheant for a reciprocity certificate, shall pay an application fee in the sum of ten dollans ( $\$ 10$ ) at the time his application as filed If the applicant qualfies for a certificate, he shall be notified and, in addition to the initial lucense fee, shall pay a fee which shall be fixed amnally by the board at a sum not in excess of one hundred dollars ( $\$ 100$ ) nor less than five dollars ( $\$ 5$ ) for the issuance of the certificate.
(e) Each applicant for a certificate under Article 6 shall pay an application fee in the sum of ten dollars ( $\$ 10$ ) at the time his application is filed If the applicant qualsfies for a certuficate. he shall be notified and, in addition to the initial license fee, shall pay a fee which shall be fixed annually by the board at a sum not in excess of forty dollars (\$40) nor less than five dollars (\$5) for the issuance of the certhficate.
(d) The renewal fee shall be one hundred twenty-five dollars (\$125).
(e) The delinquency fee is ten dollars (\$10)
(f) The duplicate certificate fee is two dollars (\$2).
(g) The endorsement fee is five dollars (\$5).
(h) The fee for issuance of a dupheate certificate upon a change of name authorized by law of a person holding a certificate under this chapter shall be two dollars ( $\$ 2$ ).
(i) The intial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the lieense is issued, except that if the hrense will expure less than one year after its issuance, then the intial license fee is an amount equal to fifty percent ( $50 \%$ ) of the renewal fee meffect on the last regular renewal date before the date on which the license is issued.

SEC 246 . Section 141325 is added to the Welfare and Institutions Code, to read:

14132 5. To the extent permitted by federal law, physicinns and surgeons whose practices are located in underserved areas shall be reimbursed at a level 20 percent in excess of the average reimbursement provided for the same services for physicians and surgeons whose practices ure not located in underserved areas.

For the purposes of thas section, an underserved area is a county census tract division in which the ratio of physicians to population is less than $100 / 100,000$ and which is designated by the director as lacking in needed physician's services "

Bill ordered reprinted, and to be re-referred to the Committee on Health.

Assembly Bill No. 6-An act relating to physicians and surgeons and making an appropriation therefor.

Bill read second tume.

## Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment 9
In line 1 of the title of the printed bill, after "rect", insert "to amend Section 2361 of the Business and Professions Code and to add Chapter 465 (commencing with Section 31286) to Division 22 of the Education Code'".

## Amendment 2

On page 2. strike out lines 1 to 23 . inclusive, and insert
"SECTION 1. Section 2361 of the Business and Professions Code is amended to read:
2361. The board shall take action against any holder of a certificate, who is guilty of unprofessional conduct which has been brought to its attention, or whose rertificate has been procured by fraud or misrepresentation or issued by mistake
Unprofessional conduct includes, but is not limited to, the following:
(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision or term of this chapter.
(b) Gross negligence.
(c) Incompetence.
(d) Gross immorality.
(e) The commission of any act involving moral turpitude, dishonesty, or corruption, whether the act is committed in the course of the individual's activities as a certfficate holder, or otherwise, or whether the act is a felony or a misdemeanor.
(f) Any action or conduct which would have warranted the denial of the certificate.
(g) Violation of the provisions of a contract made pursuant to Chapter 4.65 (commencing with Section 31.286) of Division 22 of the Education Cade.

SEC. 2. Chapter 4.65 (commeneing with Section 31286) is added to Division 22 of the Education Code, to read:

## Chapper 4.65 Calmpornia Medical Education Fund

31286. After January 1, 1977, no funds shall be appropriated by the Legislaturefor the education of medieal students at any institution within this state, and after Jamnary 1, 1977, no funds that have been appropriated by the Legislature for the education of medical students at any institution within this state, shall be expended by that mstitntion for the education of medical students, unless that institution contracts, as provided in Section 31286.1, with each student who enrolls in a medical school of that institution to attend classes for the first time in the 1977-1978 deademic year or duy time thereafter.

31286 1. The contract requured by Section 31286 shall require that the student shall, immediately after completion of the internship requirements of Section 2192 of the Business and Professions Code, or other equivalent requrements :
(a) Devote three years of medical practice to medically needy areas, as designated by the Director of the State Department of Ffealth and receive compensation for such medical practice in accordance with a procedure developed by the director as determined by the director; or
(b) Pay to the State Controller for deposit into the Calufornia Medical Education Special Fund a sum determmed by the institation that the medical student attended in accordance with generally accepted accounting procedures to be equivalent to the amount of money expended by that mstitution from funds appropriated by the Legislature, for the education of that medical student in a medical school of that institution.

312862 . The Attorney General shall bring appropriate actions in a superior court having jurisdiction to enforce the provisions of contracts required by Seetion 23490.

31286 3. There is hereby created in the State Treasury the California Medical Education Fund which is continuously appropriated to the University of Californa for expendrure for the education of medical students in accordance with the provisions of this chapter.
81286.4. The Director of the State Department of Health shall, prior to January 1, 1976, develop criteria for designating medically needy areas and designate areas that are medreally needy areas in the state. In determining medically needy areas the director shall consider the number of physicians available in such areas and the ability of such arpas to attract physiemans The director shall also, prior to Jinuary 1, 1976, develop programs for utilzing the medıeal services that will be made available by this chapter The direetor shall also develop plans to provide for adequate compensation for such medical serviees, wheh may include payment of a salary or collection and retention of fees by the person furnishng medical services Prior to Jannary 1, 1976, it shall report such findings and plans to the Legislature

312865 . For the purposes of this chapter, funds made available pursuant to the provisions of Chapter 46 (commeneing with Section 31285.1) shall not be included in determining the amount of funds allocated to ad student's education, and may be expended by any institution notwithstanding any provision of this chapter."

Bill ordered reprinted, and to be re-referred to the Committee on Health.

ADJOURNMENT
At 2.46 pm ., Speaker pro Tempore Papan declared the Assembly adjourned untıl 1 p m., Thursday, Jume 19, 1975.

LEO T. McCARTHY, Speaker .
anabel Fleury, Minute Clerk

## CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

# ASSEMBLY DAlLY JOURNAL 

# TWENTY-SECOND LEGISLATIVE DAY THIRTY-SECOND GALENDAR DAY 

## IN ASSEMIBLY

Assembly Chamber, Sacramento
Thursday, June 19, 1975,
The Assembly met at 1.36 pm .
Hon Leo T MeCarthy, Speaker of the Assembly, presiding.
Chief Clerk Jumes D Driscoll at the Desk.
Assistant Clerk Ray Monday reading.

## ROLL GALL

The roll was called, and the following answered to their names-75:

| Alatorre | Colher | Lanearter | Priola |
| :---: | :---: | :---: | :---: |
| Antonovich | Craven | Lanterman | Ralph |
| Arnett | Cullen | I.ewis | Rolunson |
| Bane | Datis | Lrockier | Rosenthal |
| Bannai | Deddeh | MaeDonald | Stegler |
| Berman | Imanon | Madely | Sieroty |
| Reterly | Duffy | MICAlister | Sutt |
| Boatwright | Egelnud | Melarnnan | Thomas, Vimepnt |
| Bripgs | Fenton | Mevittse | Thomss, William, |
| Brown | Foran | mpade | Thurman |
| Burke | Gainmendi | Miller | Turces |
| Calvo | Gogrin | Muliey | Tosconcellos |
| Camplell | Greenf | Nimutoy a | Yıenesa |
| Carpenter | Guaico | Mort | Warren |
| Chacou | Hast | Murphy | Tilson |
| Chapme | Ingalla | Nestande | Woinum |
| Chel | Keene | Ninmo | Z'herg |
| Chambele | Key bor | Papan | Mr Speaker |
| Cline | Knox | Perino |  |

Quorum present.

## PRAYER

Upon invitation of Speaker MeCarthy, the following prayer was offered by Honorable Ken MacDonald, Member, 36 th Assembly District:

Our Heavenly Fathir, We thank Thee for this opportunte to serve the people of Cultforma We welcome the presence of the Boys State leaders meating with us here todas Guide us to have the wisdom to nieet the serious chailenges of our state and nation Loord. help us to do those thmgs that are most plessing in Thy Sight-AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG
Upon request of Speaker MeCarthy, Mr. Calvo then led the Assembly in the pledge of allegiance to the Flag.

READING OF THE JOURNAL OISPENSED WITH
By unanimous consent, reading of the Journal of the previous legislative day was dispensed with.

LEAVES OF ABSENCE FOR THE DAY
The following Members were granted leaves of absence for the day, because of illness:

Mr Hayden, on request of Speaker McCarthy.
Mr Tucker, on request of Speaker McCarthy.
The following Member was granted leave of absence for the day, on legislative business, and desired to wave his per diem:

Mr Badham, on request of Speaker McCarthy.
The following Member was granted leave of absence for the day, on personal business, and desired to waive his per diem:

Mr. Kapiloff, on request of Speaker Mc Carthy.

NOTE For letter explnining the absence of Mir Badham on this day on legislative business poisuant to the Assembly Rules, see Assembly Daily Juurnal for the Regular Session for thes day.

## COMMUNICATIONS

Assembly Chamher, June 10, 1975
Mr. Speaker: Puisuant to jour unstructions, the Chief Clerk has exnomed:
Assembly Bill No 2
Assembli Brll No. 6
Assembly Bill No ${ }^{6}$
And reports the same correctly engrossed.
TAMES D DRISCOIL, Chef Clerk
Above bills re-referred to committee

## CONSIDERATION OF DAILY FILE

SECOND READING OF ASSEMBLY BILLS
Assembly Bull No. 28 -An act to add and reped Section 11587 to the Insurance Code, relating to malpractice mourance, and dectaring the urgener thereof, to take effect mmediately

Bull read second time.
Consideration of Committee Amendmants
The following amendments, proposed by the C'ommittee on Fmance, Insurance, and Commerce, were read, and adopted:

## Amendment 1

In line 1 of the title of the printed bill, strike out the second "to", and insert "of".

## Amendment 2

On page 3, line 7, after "data", insert " which may contain mformation obtained from other msurers'.

## Amendment 3

On page 3, line 12, strike out "rate increase petition", and insert "petition for rate increase or to withdraw from underwriting".

## Amendment 4

On page 3, line 16, after "increase", insert "or withdrawal from underwriting'.

## Amendment 5

On page 3, lines 17 and 18 , strike out "Chairman from', and insert "the Chairman of the".

## Amandment 6

On page 3, line 19, after "and', insert "the'".
Amendment 7
On page 3, lines 22 and 23 , strike out "by the insured".
Amendment 8
On page 3, lines 26 and 27 , strike out "of such particularity which set forth", and insert "setting forth with particularity".

Amendment 9
On page 3, line 38, strike out 'insured's", and insert "insureds' ".
Amendment 10
On page 3, line 40 , strike out "insurer.'; and on page 4, line 1 , strike out "The", and insert "insurer except that the".

## Amendment 11

On page 4, line 9, after "increase", insert "or to withdraw from underwriting'.

## Amendment 12

On page 4, line 11, after "commissioner", insert "in opposition thereto or'.

Amendment 18
On page 4, line 15, strike out the first comma; and after "extent", insert a comma.

## Amandment 14

On page 4, line 17, strike out "request for a rate decrease", and insert "petition".

## Amendment 15

On page 4, strike out lines 19 and 20, and insert "commssioner all venfied financual records relevant to the proceedings"

## Amendment 16

On page 4, line 30, strike out "of insurance of new policies", and insert "of new policies of insurance".

## Amendment 17

On page 4, line 33, after "Division 1," insert "and specifically Section 1860.2,'".

## Amendment 18

On page 5 , line 5 , after 'such', insert "date'.
Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means.

## THIRD READING OF ASSEMBLY BILLS

Assembly Bill No. 1-An act to amend Sections 125 5, 2100, 2101, $2119,2361,2362,2364,23725,2436,2454$, and 2458 of, to add Sections $2100.5,2100.6,21007,21008,21015,2101.5,2122,2361.3,2372$, and 2372.1 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Article 23 (commencong with Section 2123) and Article 24 (commencing with Section 2124 5) to Chapter 5 of Division 2 of, to add Article 8,5 (commencing with Section 6146) to Chapter 4 of Division 3 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 11 of Division 2 of, and to repeal Article 23 (commeneing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code; to amend Section 438 of, and to add Sectron 33331 to the Civil Code; to amend Sections 3405 and 1094.5 of, to add Section 6677 to, and to add Chapter 5 (commencing with Section 354) to Title 2 of Part 2 of, the Code of Givil Procedure; and to add Sections 11587 and 11588 to the Insurance Code, relating to health, and making an appropriation therefor.

Bill read third time.
Speaker pro Tempore Presiding
At 205 pm ., Hon Louis J Papan, 19th District, presiding.
Request for Unanımous Consent
Mr. Keene was granted unanimous consent that Mr. Ken Wagstaff, Consultant to the Assembly Health Commsttee, be permitted to sit at his desk during consideration of Assembly Bill No. 1 .

Motion to Grant Adcitional Time for Bebate
Mr. Collier moved that Mr. MeLennan be granted five minutes additional time for debate.

Mr Murphy seconded the motion.
Motion carried.
The question being on the passage of Assembly Bill No. 1.
Bill passed by the following vote:

| AYES-07 |  |  |  |
| :---: | :---: | :---: | :---: |
| Antonovich | Collier | Keysor | Priolo |
| Arnett | Craven | Knox | Ralph |
| Bane | Cullen | Lancaster | Robinson |
| Bannai | Deris | Lanterman | Rosenthal |
| Berman | Deddeh | Lockjer | Stegler |
| Beverly | Dison | MacDonald | Sieroty |
| Boatwright | Duffy | MeAlister | Suitt |
| Bruggs | Egeland | MeLennan | Thomes, Vincent |
| Burke | Fenton | MreVatioe | Thomas, Wilham |
| Calvo | Foran | Miller | Thurman |
| Campbell | Garamendi | Mobley | Vasconcellos |
| Carpenter | Gogein | Montoga | Warren |
| Chacon | Greene | Morı | Wulson |
| Chappe | Gualco | Murphy | Wornum |
| Chel | Hart | Nimmo | Z'berg |
| Chumbole | Ingalls | Papan | MIr. Speaker |
| Clune | Keene | Perino |  |
| NOES--8 |  |  |  |
| Alatorre | Lewis | Meade | Torres |
| Brown | Maddy | Nestande | Vicencua |

## Speaker Presiding

At 3:31 pm., Hon Leo. T. McCarthy, 18th District, presiding.
Motion to Reconaider. Assembly Bill No. 1 on Next Legishative Day
Mr Alatorre moved to reconsider on the next legislative day the vote whereby Assembly Bill No 1 was this day passed.

## Motion to Take Up Motion to Reconsidar Assembly Bill No. 1

Mr Collipe moved that the Rules be temporarily suspended for the purpose of taking up the motion to reconsider the vote on Assembly Bill No. I on this day.

The roll was called.
Call of the Assembly
Pending the announcement of the vote, Mr Collier moved a call of the Assembly
Motion carried Time, 334 pm .
The Speaker directed the Sergeant at Arms to close the doors, and to bring in the absent Members

> PROCEEDINGS UNDER CALL OF THE ASSEMELY BY UNANIMOUS CONSENT TEMPORARY SUSPENSION OF ASSEMBLY RULES

Mr. Berman was granted unanımous consent that the Assembly Rules be temporarily suspended for the purpose of placing a call of the Assembly on any matter before the House, and to permit the Assembly to conduct further business whle under a call of the House.

RECESS
By unanımous consent, at 3.35 pm , Speaker McCarthy declared the Assembly recessed.

## REASSEMBLED

At $4: 46 \mathrm{pm}$, the Assembly reconvened.
Hon Leo T McCarthy, Speaker of the Assembly, presiding.
CALL OF THE ASSEMBLY DISPENSED WITH ON MOTION TO TAKE UP MOTION TO RECONSIDER ASSEMBLY BILL NO. 1 ON THIS DAY
At 4.47 pm , on motion of Mr Collier, and in the absence of any objection, further proceedmgs under the call of the Assembly were dispensed with.

The names of the absentess were called, and the motion to temporarily suspend the rules to take up the motion to reconsider Assembly Bill No 1 on this day defeated by the following vote ;

| AYES-9 |  |  |  |
| :---: | :---: | :---: | :---: |
| Berman | Cluse | Kessor | Perino |
| Boatwright | Foran | MacDonald | Wornum |
| NOES-13 |  |  |  |
| Arnett | Brown | Fenton | Themer Vincent |
| Bane | Burke | Lewis | Thomas, Walham |
| Beterly | Campbell | Munde | $V$ Vencia |
| Briggs |  |  |  |

Assembly Bill No. 1 ordered to the unfinished business file.

The following Members were granted unanimous consent to record their votes:

On Assembly Bill No. 1: Messrs Greene and Murphy, "Aye".

## ADJOURNMENT

At 4:47 p.m., Speaker McCarthy declared the Assembly adjourned until $12: 30 \mathrm{pm}$, Friday, June 20, 1975.

LEO T. McCARTHY, Speaker
ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

# ASSEMBLY DAlLY JOURNAL 

## TWENTY-THIRD LEGISLATIVE DAY <br> THIRTY-THIRD CALENDAR DAY

## IN ASSEMEBLY

Assembly Chamber, Sacramento
Friday, June 20, 1975
The Assembly met at 12.30 pm
Hon. Leo T MeCarthy, Speaker of the Assembly, presiding.
Chief Clerk James D. Driscoll at the Desk.
Assistant Clerk Ray Monday readıng.

## ROLL CALL

The roll was called.
Quorum Call of the Assembly
Mr. Nimno moved a quorum call of the Assembly.
Mr Havden seconded the motion.
Motion carried Time, 12.35 pm .
The Speaker drected the Sergeant at Arms to close the doors, and to bring in the absent Members.

Speaker pro Tempore Presiding
At 12:50 p m., Hon, Louis J. Papan, 19th District, presiding.
PROCEEDINGS UNDER CALL OF THE ASSEMBLY
BY UNANIMOUS CONSENT
QUORUM PRESENT
At 12:50 pm, Speaker pro Tempore Papan declared a quorum of the Assembly present.

## (2)

The roll call was completed, and the following answered to their names- 75 :

| Alatorre | Collier | Lancaster | Priola |
| :---: | :---: | :---: | :---: |
| Antonovich | Craven | Lanterman | Ralph |
| Arnett | Cullen | Lewss | Rolinson |
| Baclham | Davis | Lackier | Rosputhal |
| Bane | Deddeh | Sacionald | Sregler |
| Bannai | Dixon | Maddy | Sieroty |
| Berman | Dufty | MeAlister | Sutt |
| Beverly | Egeland | McLeman | Thontaq, Vincept |
| Boatwright | Fenton | McVittie | Thomas, Wrillam |
| Briggs | Foran | Mrate | Tbuman |
| Brown | Garamendı | Miller | Torres |
| Burke | Greene | Mobley | Vasconcetlos |
| Calro | Gualeo | Montosa | Vicencia |
| Carpenter | Hart | Morı | Warren |
| Chacon | Hayden | Murphy | Wilson |
| Chappre | Ingnls | Nestande | Wornum |
| Chel | Kapuloff | Nimmo | Z'berg . |
| Chimbole | Keene | Papan | Mr. Speaker |
| Cline | Kezsor | Perino |  |

PRAYER
Upon invitation of Speaker McCarthy, the following prayer was offered by Honorable Robert P. Nmmo, Member, 29th District:

Gue Us Today, Father, The grace of friendlmess that we may share the joys and troubles of those with whom we work.
Give us grace to speak the right words when we must speak, the grace to be silent when we need not speak, the grace to listen when someone else speaks

Help us to know each other better so that, in new friendship, we will find new understanding and new strength -AMEN.
pLEDGE OF allegiance to the flag
Upon request of Spenker pro Tempore Papan, Mr Bannai then led the Assembly in the pledge of allegrance to the Flag

## READING OF THE JOURNAL DISPENSED WITH

By unanimous consent, reading of the Journal of the prevous legislatwe day was dispensed with.

## LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness.
Mr Campbell, on request of Speaker MeCarthy.
Mr Tucker, on request of Speaker McCarthy.
The following Member was granted leave of absence for the day, on legrislative business, and desired to waive his per diem:

Mr Knox, on request of Speaker McCarthy
The following Member was granted leave of absence for the day, on personal busness, and desired to waive his per diem:

Mr Goggin, on request of Speaker McCarthy.

NOTF For letter explaming the unsence of Mt Kuea on this day on legislatase busuren puisunat to the Ansembly Rules, nee Assembly Daly Juuraal for the Regular Sesshon fur this dag.

Assembly Chamher, June 20, 1975
Mr Speaker Pursuant to roir mstmictions, the Chief Clerk has examined. Assembly Rill No 28
And reports the same correctly engrossed.
James D DRISCOII, Chief Clerk
Above bill re-referred to committee.

## REPORTS OF BTANDING COMMITTEES

## Committee on Finance, Inaurance, and Commorce <br> Assembis Chnmber, June 18, 1075

Mr. Speaker: Your Commattee on Finance, Insurance, and Commerce reporta. Assemhly Bull No. 12
With amendments with the recommendition. Amend, do pass, as amended, and be re-referred to the Committee on Ways and Means.

MCALISTER, Chairman
Above bill ordered to second reading.

## AUTHOR'S AMENDMENTS <br> Committee on Health

Assembly Chamber, June 20, 1875
Mr. Spenker: The Chamman of your Committee on Health reports.
Assembly Bill No 4
With author's amendments with the recommendation: Amend, and re-refer to the Committee on Heulth.

Kekne, Charman
Assembly Bill No. 4-An act to add Division 18 (commeneing with Section 22000) to the Health and Safety Code, relating to health, and makiug an appropriation therefor.

Bill read second time.

## Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

## Amendment 1

On page 3, line 27, of the printed bill, as amended in Assembly June 13,1975 , strike out the comma, and insert "or".

## Amendment 2

On page 3, lines 28 and 29, strike out ", the Welfare and Institutions Code, and the Health and Safety Code'.

## Amendment 3

On page 4, line 10 , after "practice", insert ", as determined by action of the appropriate heensing board or agency,".

## Amendment 4

On page 4 , line 14 , strike out "The", and insert "To initiate proceedings for the'.

## Amendment 5

On page 4, strike out lines 20 to 22 , melusive, and insert "and acceptable treatment patterns for institutional providers.'

## Amendment 6

On page 4, line 40, strike out "Chapter 1 (commeneing with", and on page 5 , line 1 , strike out 'Section 1200) or'.

Amendment 7
On page 5, line 2, strike out "or pursuant to Division 9"; and strike out lines 3 to 5 , melusive, and insert a period.

## Amendment 8

On page 5, strike out lines 11 to 14 , inclusive, and insert "Professions Code or the Osteopathic Initative Act.'

Amendment 9
On page 7, strike out lines 16 to 18 , inclusive, and insert
" (a) The presentation of findings to the appropriate licensing board or agency concerning the competence of professional and institutional providers and the initiation of proceedings before the appropriate licensing board or agency to restrict the licensure of professional and institutional providers "

## Amendment 10

On page 7 , line 23 , strike out 'the certification levels', and insert "a quality review mechanism".

Amendment 11
On page 7, strike out lines 34 to 36 , inclusive.

## Amendment 12

On page 8, strike out lines 21 and 22 , and insert " and request an appropriate restriction of the provider's heense The office shall make all of its data available to the appropriate licensing board or agency and the Attorney General for the purposes of investigating and certifying providers as to competence "

## Amendment 13

On page 8, strike out lines 34 to 40 , inclusive, and on page 9 , strike out lines I to 8 , inclusive.

## Amendment 14

On page 9 , line 9 , strike out "All", and insert "For the purpose of informing malpractice insurers, all".

## Amendment 15

On page 9 , line 10, strike out "certified', and insert "evaluated".
Amendment 16
On page 9, line 32, strike out "pursuant to Section 22034', and insert "of license by the appropiste licensing board or agency".

## Amendment 16.5

On page 9 , line 38 , strike out "under"; and strike out lines 39 and 40 , and insert "to the full scope of practice authorized by such license, until such time as the provider'.

Amendment 17
On page 10, line 1, strike out "certified by this office", and insert "evaluated by this office and subsequently recertified by the appropriate licensing board or agency".

Amendment 18
On page 10 , line 7 , strike out "office", and insert "appropriate licensing board or agency'.

Amendment 19
On page 10, line 9, strike out "certify", and insert "evaluate".
Amendment 20
On page 10, strike out lines 14 to 25 , inclusive.
Amendment 20.5
On page 10 , line 34 , strike out "heren", and insert "by the appropriate licensing board or agency'.

## Amendment 21

On page 11, line 3, after "certified", insert "by the appropriate licensing board or agency after evaluation by the office".

Amendment 22
On page 11, strike out lines 6 to 18, inclusive, and insert "Code."
On page 11, line 23, strike out "certified", and insert "evaluated".

## Amendment 24

On page 11, line 24, strike out "so inform'", and insert "initiate proceedings before'.

## Amendment 25

On page 11, line 25, strike out "receipt of", and insert "the initiation of".

Amendment 25
On page 11, line 26 , strike out "notification, appropriately restrict", and insert "hearings, appropriately restrict or uphold".

## Amendment 27

On page 11, line 27, strike out "The determination of the offlce is'; and strike out lines 28 and 29 .

Bill ordered reprinted, and to be re-referred to the Committee on Health.

## Hon. Walter W. Ingails Presiding -

At 12:55 p.m., Hon. Walter W. Ingalls, 68th District, presiding.
Spenker pro Tampore Presiding
At 1:05 p.m., Hon. Louis J. Papan, 19th District, presiding.

## CONBIDERATION OF DAILY FILE <br> UNFINISHED BUSINESS

MOTION TO REOONSIDER ASSEMBLY BILL NO. 1
In compliance with a motion given on a previous day, Mr. Alatorre moved that the vote whereby Assembly Bill No. 1 was passed be reconsidered.

Assembly Bill No. 1 reconsidered by the following vote:

| AYE8-64 |  |  |  |
| :---: | :---: | :---: | :---: |
| Alatorre | Craven | Lewis | Fobinson |
| Antonovich | Deddeh | Lockjer | Rosenthal |
| Arnett | Dixon | MaeDonald | Siegler |
| Badham | Duffy | Maddy | Sieroty |
| Bane | Ereland | MeAlister | Suitt |
| Banpai | Fenton | McLeman | Thomas, Fincent |
| Berman | Foran | Mrvitie | Thomas William |
| Briges | Garamendi | M.eade | Thurman |
| Burle | Greene | Mobley | Torres |
| Calvo | Hart | Miors | Visconcellos |
| Carpenter | Hayden | Nestande | Ficencta |
| Chapple | Ingalls | Nimma | Warren |
| Chel | Kapilof | Papan | Witison |
| Chimbole | Keene | Rexino | Wornum |
| Cline | Keysor | Prioio | Q'berg |
| Collier | Lancaster | Raipl | Mr. Speaker |
| - | NOES-None |  |  |

## Further Copsideration of Assembly Biil No, 1

Assembly Bill No. 1-An act to amend Sections 125.5, 2100, 2101, $2119,2361,2962,2364,2372.5,2436,2454$, and 2458 of, to add Sections $2100.5,2100.6,2100.7,2100.8,2101.5,21016,2122,2361.3,2372$, and 2372.1 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Article 2.3 (commencing with Section 2123) and Article 2.4 (commencing with Section 2124.5) to Chapter 5 of Division 2 of, to add Article 8.5 (commencing with Section 6146) to Chapter 4 of Division 3 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Ohapter 1 of Division 2 of, and to repeal Article 2.3 (commeneing with Section 2123) of Chapter 5 of Division 3 of, the Business and Professions Code; to amend Section 43.8 of, and to add Section 3333.1 to the Civil Code; to amend Sections 340.5 and 1094.5 of, to add Section 667.7 to, and to add Chapter 5 (commencing with Section 364) to Title 2 of Part 2 of, the Code of Civil Procedure; and to add Sections 11587 and 11588 to the Insurance Code, relating to health, and making an appropriation therefor.
Bill read third time.

## Motion to Amend by Mr. Kapiloff

Mr. Kapiloff moved the adoption of the following amendments :


#### Abstract

Amendment 1 In line 18 of the title of the printed bill, as amended in Assembly June 17, 1975, after "Code," insert "and to amend Section 14105 of, and to add Sections 14105.1 and 14105.2 to, the Welfare and Institutions Code, '".


## Amendment 2

On page 39, between lines 9 and 10 , insert
"SEC. 27.6. Section 14105 of the Welfare and Institutions Code is amended to read :
14105. The director shall prescribe the policies to be followed in the administration of this chapter, may limit the rates of payment for health care services, and shall adopt such rules and regulations as are necessary for carrying out, not meonsistent with, the provisions thereof.

Such policies and regulations shall include rates for payment for services not rendered under a contract pursuant to Chapter 8 (commencing with Section 14200) of this part. Standards for costs shall be based on payments of the reasonable cost for such services except that rates of payment for providers under Section 141051 shall be based on the standards contained $n n$ that section. Amounts paid for services provided to Medi-Cal beneficiaries shall be audited by the Department of Benefit Payments in the manner and form prescribed by it. The Department of Benefit Payments shall maintain adequate controls to insure responsbility and accountabilhty for the expenditure of federal and state funds. Cost reports and other data submitted by providers to a state agency for the purpose of determining reasonable costs for servjces or establishing rates of payment shall be considered true and correct unless audited or reviewed by the Department of Benefit Payments within eighteen (18) months after July 1, 1969, the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later; provided, however, that cost reports and other data for cost reporting periods begmning on January 1, 1972, and thereafter shall be considered true and correct unless audited or reviewed within three years after the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later.

Nothing in this section shall be construed to limit the correction of cost reports or rates of payment when inaccuracies are determined to be the result of intent to defraud, or when a delay in the completion of an audit is the result of willful acts by the provider or inablity to reach agreement on the terms of final settlement.

Insofar as practieal, consistent with the efficient and economical administration of this part, the department shall afford recipients of public assistance free choice of arrangements under which they shall recelve health care benefits.

If, in the judgment of the director, the actions taken by the director under subdivision (c) of Section 14120 will not be sufficient to operate the Medi-Cal program within the limits of appropriated funds, he may limit the scope and kinds of health care services, except for minimum coverage as defined in Section 14056, available to persons who are not eligible under Sections $14005.1,14005.2$ and 140053 . When and if necessary, such action shall be taken by the director with the advice of the Health Care Commission and in ways consistent with the requirements of the Federal Social Security Act. This paragraph shall not be operative until July 1, 1972.

SEC. 27.7. Section 14105.1 is added to the Welfare and Institutions Code, to read:
14105.1. Fach provider shall be reimbursed his usual and customary charge, provided, that no provider shall be reimbursed an amoont exceeding either his usual and customary charge to private patients or the 60th percentile of the customary and prevailing charge for such service in California as of January 1 of the preceding fiscal year as determined by the department. In the case of physicians and such other provider groups as the department may designate, the customary and prevailing charges and the 60th percentile thereof shall be determined on a localizd basis. In determining the customary and prevailing charges and the 60th percentile thereof, the department shall solicit and consider data submitted by professional associations representing health eare provider groups.

- The department shall, when feasible, reimburse provider groups on a relative service value basis.

As used in this seation the term "provider"' shall not include health facilities licensed pursuant to Section 1250 or exempt from licensing under subdivision (a) of Section 1270 of the Health and Safety Code.

This section shall be operative to the extent permitied by federal law.
SEC. 27.8. Section 141052 is added to the Welfare and Institutions Code, to read:

- 14105.2. A provider of health oare services under this chapter may seek review by the department of the rates estublished for payment of services. The director shall conduct such review in accordance with the procedure contained in Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, of the Government Code."

Amendments read.
Demand for Previous Question
Messrs. Craven, MacDonald, Calvo, Ingalls, and Chel demanded the previous question. Demand sustained.

The question being on the adoption of the amendments offered by Mr. Kapiloff to Assembly Bill No. 1.

Amendments refused adoption by the following vote:

| AYES-19 |  |  |  |
| :---: | :---: | :---: | :---: |
| Alatorre | Craven | Meade | Torres |
| Antonovich | Fenton | Priolo | Vasconcellos |
| Brown | Kapiloff | Sieroty | Vacencia |
| Burke | Lockyer | Thomas, Vincent | Wilson |
| Cerpenter | MacDonald | Thomas, William |  |
| NOES-48 |  |  |  |
| Arnett | Cline | Ingalle | Nestande |
| Badham | Colher | Keene | Nimimo |
| Bane | Cullen | Kessor | Papan |
| Bannai | Davis | Lancaster | Perino |
| Berman | Dixou | Lanterman | Robinson |
| Beverly | Duffy | Maddy | Rosenthal |
| Boatwright | Fgeland | McAluster | Sregler |
| Briggs | Foran | McLennan | Suitt |
| Calro | Garamendi | McVittie | Thurman |
| Chappie | Greene | Mabley | Wornum |
| Chel | Gualeo | Mor | Z'berg |
| Chimbole | Hay den | Murphy | Mr Speaker |

The question being on the passage of Assembly Bill No. 1.
Bull passed by the following vote:

| AYES-65 |  |  |  |
| :---: | :---: | :---: | :---: |
| Antonovich | Craven | Keysor | - Priolo |
| Arnett | Cullen | Lancaster | Ralph |
| Badham | Davis | Lanterman | Robinson |
| Bane | Deddeh | Lockyer | Rosenthal |
| Bannai | Dixon | MaeDonald | Siegler |
| Berman | Duffy | McAlister | Sleroty |
| Beverly | Egeland | McLennan | Suitt |
| Boatwright | Fentor | MicVittie | Thomas, Vincent |
| Briggs | Foran | Miller | Thomas, William |
| Burke | Garamendi | Mobley | Thurman |
| Calvo | Greene | Montoja | Vasconcellos |
| Carpenter | Gualco | Morı | Warren |
| Chappre | Hart | Miniphy | Wilson |
| Che] | Hay den | Nimmo | Wornum |
| Chimbole | Ingalls | Papan | Z'berg |
| Chine | Keene | Perino | Mr. Speaker |
| NOES-8 |  |  |  |
| Alatorre Brown | Kapiloff Madily | Meade Nestande | Torres <br> Vicencia |

Bill ordered transmitted to the Senate.
RECESS
At 142 pm ., Speaker pro Tempore Papan declared the Assembly recessed.

## REASSEMBLED

At 2:49 p.m., the Assembly reconvened.
Hon. Leo T. MeCarthy, Speaker of the Assembly, presiding.
QUORUM CALL OF THE ASSEMBLY DISPENSED WITH
At 2:49 p.m., Speaker McCarthy declared the quorum call of the Assembly dispensed with.

## VOTE CHANGES

The following Members were granted unanimous consent to record their votes:

On the amendments offered by Mr. Kapiloff to Assembly Bill No. 1: Mr. Vasconcellos, "Aye"; Mr. Deddeh, "No" to "Not voting".

On-Assembly Bill No. 1: Mr. Montoya, "Aye".

## ADJOURNMENT

At 2:50 p.m., Speaker MeCarthy declared the Assembly adjourned notil 9 a.m., Monday, June 23, 1975.
LEO T. MeCARTHY, Speaker
ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

# ASSEMBIY DAIIY JOURNAL 

TWENTY-FOURTH LEGISLATIVE DAY
THIRTY-SIXTH CALENDAR DAY

## IT ASSEMBLY

Assembly Chamber, Sacramento
Monday, June 23, 1975
The Assembly met at 623 pm
Hon. Leo T MeCarthy, Speaker of the Assembly, presiding.
Chief Clerk James D Driscoll at the Desk.
Assistant Clerk Ray Monday reading.
ROLI CALL
The roll was called, and the following answered to their names-78:


Quorum present.

## PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

We give You thanks
for what we have received as a gift ;
Life itself, and language, the touch of someone who loves us,
The delights of food and drink, and the gifts we take for granted,
Like coolness in the evening, and the earth turning back to the sun.

We give You thanks for a world of so much variety
That we believe in Heaven
because we don't have time to enjoy all the earth.
Most of all we thank You, Father,
for the gift of a fellow human
Whom we call Jesus and some of us call Lord, who dares to make us hope
That Your power is greater than all our troubles and we are right to join the angels in Your praise.

$$
\longrightarrow . T . \boldsymbol{N}^{\prime} o l a n
$$

## pledge of allegiance to The flag

Upon request of Speaker MeCarthy, Mr. Kapiloff then led the Assembly in the pledge of allegiance to the Flag.

## MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr Beverly, seconded by Mr. Calvo.

## LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr. Tucker, on request of Speaker pro Tempore Papan.

## CONSIDERATION OF DAILY FILE BECOND READING OF ABSEMBLY BILLS

Assembly Bill No. 12-An act to add Article 7 (commencing with Section 11890) to Chapter 4 of Part 3 of Division 2 of the Insurance Code, relating to medical malpractice, and making an appropriation therefor.

Bill read second time.

## Consideration of Committee Amundmente

The following amendments, proposed by the Committee on Finance, Insurance, and Commeree, were read, and adopted:

## Amendment 1

In line 1 of the heading of the printed bill, strike out "and".
Amendment 2
In line 2 of the heading, after "Robinson", insert ", Goggin, Kapiloff, Miller, Torres, and Z'berg'.

## Amendment 3

In lines 3 and 4 of the title, strike out ", and making an appropriation therefor".

## Amendmant 4

On page 3, line 13, strike out "which occurs during"; strike out lines 14 and 15 ; and in line 16 , strike out "licensee".

## Amondment 5

On page 3. line 23, strike out "The", and insert
"If the Governor finds that essential health care services are unavalable or may imminently become unavailable to a significant number of persons anywhere in this state, the Governor may, by proclamation, create the".

## Amendment 6

On page 3, line 24 , strike out "is hereby created".
Amendment 7
On page 3, line $\mathbf{2 7}$, after "insurance", insert "on an occurrence basis only'.

## Amendments

On page 4, line 32, strike out "years', and insert "year'".
Amendment 9
On page 4, line 32, strike out "year", and insert "years".

## Amondment 40

On page 4, line 34, strike out "and necessary reserves", and insert "and such reserves as the board of directors may determine".

## Amendment 11

On page 4, strike out line $\mathbf{3 6}$; and in line 37 , strike out "account".
Amendmant 12
On page 5 , line 10 , strike out the second period.
Amendmant 13
On page 5, line 11, strike out "hereby'".

Amendment 14
On page 9 , between lines 22 and 23 , insert
"'11892.4. Whenever the account is not possessed of admitted assets sufficient to discharge all liabilities and to maintain adequate surplus, the board of directors may make an equitable assessment upon policies which have been written by the account for the amount needed to make up the deficiency Every subscriber from the account shall be liable to pay, and shall pay, his proportional part of any such assessment. Eiach such subscriber's share of the deficiency for which an assessment is made shall be determined by applying to the preminm earned on the subscriber's policy or policies during the period to be covered by the assessment, the ratio of the total deficiency to the total premiums earned during such period, upon all policies subject to and available for such assessment."

## Amendment 15

On page 9 , strike out lines 38 to 40 , inclusive.

## Amendment 16

On page 10, strike out line 1 .
Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means.

## COMMUNICATIONE

Assembly Chamber, June 28, 1973
Mr. Speaker Pursuant to your mstrinctions, the Chief Clerk bas examined.
Assembly Bill No 4
And reports the same correctly engrossed.
JAMES D. DRISCOLL, Chief Clerk
Above bill re-referred to committee.

## ADJOURNMENT

At $6: 24 \mathrm{pm}$,, Speaker McCarthy declared the Assembly adjourned until 9 a.m., Tuesday, June 24, 1975.
LEO T. MeCARTHY, Speaker
ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAlLY JOURNAL

> TWENTY-FIFTH LEGISLATHVE DAY THIRTY-SEVENTH CALENDAR DAY

## IN Assemimiy

## Assembly Chamber, Sacramento

 Tuesday, June 24, 1975The Assembly met at 7 p.m.
Hon. Leo T. McCarthy, Speaker of the Assembly, presiding. Chief Clerk James D Driscoll at the Desk. Assistant Clerk Ray Monday reading.

ROLL CALL
The roll was called, and the following answered to their nameg-78:

| Alatorre | Coller | Knox | Perino |
| :---: | :---: | :---: | :---: |
| Antonovich | (')nuea | Lancaster | Priole |
| Arnett | Cullen | Lanterman | Ralph |
| Badhum | Ibas is | Lewils | Rolinson |
| I3ane | Decldeh | Tackyer | Rosenthal |
| Brinai | Itrun | MacIlonald | Siecter |
| Herman | 1)nfy | Madis | Sieroty |
| Heverls | Hreland | Med lixter | Suitt |
| Buatwright | F'puton | Mel.enuan | Thomas, Yincent |
| Rrige* | Foran | MeVittie | Thomas, Willdam |
| Hconn | Garamendi | Meade | Thurnan |
| Burke | (hirgin | Miller | Torres |
| Calvo | Greene | Mobles | Vneconcellos |
| Campliell | Gualco | Montosa | Vicencia |
| Cammenter | Hart | Mors | W'arren |
| Chrema | Hasilen | Murnhy | Wilsun |
| Chnpuse | Incails | Nestande | Wornum |
| Chel | Kapuloff | Nimmo | Z'bers |
| Chamhole | Keene | Paprin | Ar Spenker |
| Cline | Kejsor |  |  |

## PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

We Pray to You, God, Our Father, For all the people who serve this State of California. May those who are elected prove to the public by their deeds and achievements that they are dedicated to serving rather than being served, that they are honest, concerned, and honorable.

Keep them mindful of the fact that they are not only makers of laws and policies but also molders of human minds and attitudes

Help them to embrace this responsibility with enthusiasm, bumility, and always with abundant care and concern.-AMEN.

## PLEDGE OF aLLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr Chel then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL
Further reading of the Journal of the previons legislative day was dispensed with on motion of Mr. Calvo, seconded by Mr. Siegler.

LEAVES OF ABSENCE FOR THE DAY
The following Member was granted leave of absence for the day, because of iliness:

Mr. Tucker, on request of Speaker McCarthy.
COMMUNIOATIONG
Assembly Chamber, Tune 24, 1075
Mr. Speaker: Pursuant to your instructions, the Chief Clerk has examined:
Assembly Bill No. 12
And reports the same correctly engrossed.
TAMES D. DRISCOLIL, Chief Clerk
Above bill re-referred to committee.

## AUTHOR'S AMENDMENTS <br> Committee on Judiciary

Assembly Chamber. Tune 24, 1975
Mr. Speaker The Chairman of your Committee on Judiciary reports:
Assembly Bill No 23
With author's amendments with the recommendation : Amend, and re-refer to the Committee on Judiciary

MIILER, Chairman

Assembly Bill No. 23-An act to add Chapter 12 (commencing with Section 4950) to Division 2 of the Busmess and Professions Code, relating to medical malpractice reports.

Bill read second time.

## Consideration of Author's Amendmente

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

## Amendment 1

On page 2, line 8, of the printed bill, as amended in Assembly June 12, 1975, strike out "health care"; and in line 9, strike out "providers", and insert "physicians".

Amendment 15
On page 2, line 10, strike out "health care providers", and insert "physicians".

## Amendment 2

On page 2, line 12 , strike out "health care providers', and insert "physicidns".

## Amendment 3

On page 3, strike out lines 2 to 16 , inclusive, and insert
"4952. "Board" means Board of Medical Quality Assurance as defined in Section 2100 and the Board of Osteopathic Examiners of the State of California.
4953. "Physician" means any person who is certified to do the acts specified in Section 2137 and any person licensed pursuant to the Osteopathic Initiative Act."

## Amendment 4

On page 3 , line 33 , strike out "said", and insert "such".

## Amendment 4.5

On page 3, line 37, strike out ", a health care provider", and insert "a physician".

## Amandment 5

On page 3, strike out lines 38 and 39.
Amendment 6
On page 3, line 40, strike out "health care provider", and insert "physician".

## Amendment 7

On page 4, lines 3 and 4, strike out "health care provider", and insert "physician".

## Amandment 8

On page 4, line 4, strike out "said", and insert "such".
Amendment 9
On page 4, strike ont line 6; and in line 7 , strike out "professions", and insert "to the board regulating the physician or physicuans".

Amendmant 10
On pare 4, lines 14 and 15, strike out "health care provider or providers', and msert 'physiciau or physicians".

Amendment 11
On page 4, line 22, strike out "health care provider", and insert "physician".

## Améndment 12

On page 4, line 27, strike out "health care provider", and insert "physician".

## Amendment 13

On page 4, line 35, strike out "health care provider", and insert "physician".

Amendment 14
On page 4, strike out line 37 , and insert "after the receipt of such notice, the physician".

## Amendment 15

On page 5, line 20, strike out "health care provider", and insert "physician".

## Amendment 16

On page 5, line 22, strike out "health care provider", and insert "physician".

## Amandment 17

On page 5, line 28 , strike out "health care provider", and insert "physician".

## Amendment 18

On page 6, strike out lines 1 to 15, inclusive, and insert
"4964. Any physician who knowingly and willfully fails to submit a report as required by Sections 4958 and 4961 with intent to concealthe incident or occurrence is guilty of unprofessional conduct withn the meaning of Section 2361.
4965. Any physician who willfully suppresses or attempts to suppress information required by this chapter to be reported or who, by the exercise of oppression, fraud, or undue influence, seeks to prevent any other person from reporting any matter as provided by this chapter is guilty of unprofessional conduct within the meaning of Section 2361."

## Amendment 19

On page 6, line 19, strike out "said", and insert "such".

## Amendment 20

On page 6, line 22, after "' notification', insert "to the patient".
Amendment 21
On page 6, line 24, after " 4958 ", insert " Within the same period of time the board shall send written notification by registered mail to the physician who is responsible for the alleged neglizent acts or omissions or acts of professional incompetence that caused injury to a patient."

## Amendment 22

On page 6, line 26, strike out "notification", and insert "notifications".

## Amendment 23

On page 6, lines 26 and 27, strike out "health care provider", and insert "physician'.

## Amendment 24

On page 6, line 37, strike out "health care provider or by a health care"; and in line 38, strike out "provider", and insert "physician or by a physician'".

Amendment 25
On page 6, line 39, strike out 'health care providers', and insert "physicians".

Amendment 26
On page 6 , line 40 , strike out "person'", and insert "physician".
Amendment 27
On page 7, strike out lines 3 to 6, inclusive, and insert "is guilty of unprofessional conduct within the meaning of Section 2361."

Amendment 28
On page 7, line 9, strike out "health care provider", and insert "physician".

Amendment 29
On page 7, line 15, strike out "health care provider", and insert "physician".

Amendment 80
On page 7, line 18, strike out "health care provider", and insert "physician".

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

JOINT RULE 62(土) WAIVED
Speaker McCarthy was granted unanimous consent that Joint Rule $62(a)$ be waived for the purpose of setting Assembly Bills Nos. 2 and 5 for hearing in the Committee on Health on Wednesday, June 25, 1975.

## ADJOURNMENT

At $7: 01 \mathrm{pm}$, Spenker MrCurthy declared the Assembly adjourned until 9 a.m., Wednesday, June 25, 1975.

LEO T. MeCARTHY, Speaker
ANABRL FLEURY, Minute Cleris

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAILY JOURNAL

## tWENTY-Sixth Legislative day THIRTY-EIGHTH GALENDAR DAY <br> IN ABSEMBLY

Assembly Chamber, Sacramento
Wednesday, June 25, 1975
The Assembly met at $6 \cdot 21 \mathrm{pm}$.
Hon, Leo T McCarthy, Speaker of the Assembly, presiding Chief Clerk James D Driscoll at the Desk.
Assistant Clerk Ray Monday reading.

## ROLL CALL

The roll was called, and the following answered to their names-78:

| Alatorre | Collier | Knox | Perino |
| :---: | :---: | :---: | :---: |
| Antonovich | Craven | Lancaster | Priolo |
| Arnett | Cullen | Lanterman | Ralph |
| Badham | Davis | Lewis | Robinson |
| Bane | Deddeh | Lockyer | Rosenthal |
| Bannai | Dixon | MacDonuld | Siegler |
| Berman | Duffy | Maddy | Sieroty |
| Beverly | Egeland | MeAlister | Surtt |
| Boatwright | Fenton | MeLennan | Thomns, Yincent |
| Briggs | Foran | McVitite | Thamas, William |
| Brown | Garamendi | Meade | Thutman |
| Burke | Goggin | Miller | Torres |
| Calvo | Greene | Mobles | Vasconcellos |
| Camplell | Gualco | Montoya | Vicencia |
| Carpenter | Hart | Mori | Warren |
| Chacon | Hayden | Muphy | Walson |
| Chappie | Ingalls | Nestande | Wernum |
| Chel | Kapiloff | Nimmo | 2 berg |
| Chimbole | Keene | Pepan | Mr. Speaker |
| Cline | Kessor |  |  |

Quorum present.

## PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

Father, May we reflect on the words of the late Dag Hammarskjold, "How am I to find the strength to live as a free man. detached from all that was unjust in my past and all that is petty in my present, and so daly, to forgive myself $;$
"Lufe will judge me by the measure of the love I myself am capable of, and with patience according to the measure of my honesty in attempting to meet its demands, and with an equity before which the feeble explanations and excuses of self-importance carry no weight whatsoever '"-AMEN.

## JOINT RULE 62(a) WAIVED

Speaker McCarthy was granted unammous consent that Joint Rule 62 (a) be waived for the purpose of setting Assembly Bills Nos 2 and 5 for hearing in the Committee on Health.

## pledge of allegiance to the flag

Upon request of Speaker McCarthy, Mr Nimmo then led the Assembly in the pledge of allegiance to the Flag.

READING OF THE JOURNAL DISPENSED WITH
By unanimous consent, reading of the Journal of the previous legislative day was dispensed with.

LEAVES OF ABSENCE FOR THE DAY
The following Member was granted leare of absence for the day, because of illness.

Mr Tucker, on request of Speaker McCurthy
REPORTS OF STANDING COMMITTEES
Committee on Health
Assembly Chamber, June 23, 1075
Mr. Speaker Your Committee on Henlth reports:
Assembly Bill No 35
With amendments with the recommendation Amend, do pass, as amended, and be re-referred to the Commitief on Wias and Means

KEENE, Chairman
Above bill ordered to second readung.

## ADJOURNMENT

At 622 pm , Speaker MeCartly declared the Assembly adjourned until 9 a m, Thursday, June 26, 1975.

LEO T. MeCARTHY, Spenker
ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

# ASSEMBLY DAlLY JOURNAL 

## TWENTY-SEVENTH LEGISLATIVE DAY THIRTY-NINTH CALENDAR DAY

In ASSEMBLY

Assembly Chamber, Sacramento
Tharsday, June 26, 1975
The Assembly met at $6: 13 \mathrm{pm}$.
Hon Leo T McCarthy. Speaker of the Assembly, presiding. Chief Clerk James D Driseoll at the Desk.
Assistant Clerk Ray Monday reading.

## roll call

The roll was called, and the following answered to their names-79:

| Alatorre | Collher | Knox | Priolo |
| :---: | :---: | :---: | :---: |
| Antonorich | Craven | Lancaster | Raluh |
| Arnett | Cullen | Laiterman | Robinson |
| Badhatm | Davis | Lewrs | Rosenthal |
| Bane | Deddeh | Lockser | Stegler |
| B.rmai | Divon | MacDonald | Slecoty |
| Beiman | Duffy | Madly | Sutt |
| Beverly | Egeland | Mcalinter | Thomas, Yineent |
| Boatwright | Fenton | MeLemnan | Thoms, Wilham |
| Brisgs | Foinn | McVittie | Thith man |
| Brown | Garamendi | Mende | Tortes |
| Burke | Goggin | Miller | Tucker |
| Calio | Grepne | Stobley | Viaconcellos |
| Cimphell | Gualco | Miontoza | Vicencia |
| Cappenter | Hant | Mor) | Whiren |
| Chateon | Hayden | Murphy | Wilson |
| Chappre | Ingults | Nestande | Woinum |
| Chel | Kıpulof | Nimmo | Z'berg |
| Chimbole | Kerele | Pruan | Mi. Speaker |
| Clune | Key sor | Pelino |  |

Quorum present

## PRAYER

Upon invitation of Speuker McCarthy, the following prayer was offered by Rev Robert Romeis, St. John's Lutheran Church

Eternal God and Hcavenly Father, Who dost hold in the hollow of Thy hand the destiny of each and every one of us; we give Thee thanks that Thou hast protected us through the nught from all danger and harm, and that Thou hast set before us this bright new day, without blot or stam upon it. Grant us so to live these comme hours that when at evening we offer to Thee the record of this day it may not be soiled with selfish interest, narrow prejudice, or madequate vision; but may rather be engraved with wards and deeds of honor, courage, farthfulness and self-giving service; through Jesus Christ, Thy Son, our Lord. -AMEN.

## pledge of allegiance to the flag

Upon request of Speaker MeCarthy, Mr. Deddeh then led the Assembly in the pledge of allegiance to the Flag.

## MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous' legislative day was dispensed with on motion of Mr. Calvo, seconded by Mr. MacDonald.

## REQUEST FOR UNANIMOUS CONSENT

Speaker McCarthy was granted unanimous consent that all bills reported from commuttees today be taken up without reference to file, for purpose of second reading and adoption of committee amendments; that all amended bulls be returned to the thard reading file or the Second Day Consent Calenddr, and that all Assembly bills be considered engrossed.

## COMMUNICATIONS

Assembly Chamber, June 25, 1975
Mr Speaker ' Pursnant to your instiuctions, the Chef Clerk has examined:
Assembly Bill No 23
And reports the same correctly engrosaed.
JAMES D. DRISCOLL, Chief Clerk
Above bill re-referred to committee.
CONSIDERATION OF DAILY FILE
SECOND READING OF ASSEMBLY BILLS
Assembly Bill No. 35-An act to add Section 141104 to the Welfare and Institutions Code, ielating to Medi-Cal, and declaring the urgeney thereof, to trke effect mmedurtely.

Bill read secoud time
Consideration of Committee Amendments
The following amendments, proposed by the Committee on Health, were read, and aclopted.

## Amendment 1

In line 2 of the title of the printed bill, after the second comma, insert "making sin appropriation therefor,'.

## Amendment 2

On page 2, line 3, strike out "Medi-Cal", and insert "Effective July 1, 1975, Medi-Cal basic'".

## Amendment 3

On page 2, line 8, after "rates', insert "and any changes in such rates pursuant to this section".

## Amendment 4

On page 2, line 11, strike out "Department of Health", and insert "rates and fees section of the department".

## Amendment 5

On page 2, line 15, after "the', insert "rates and fees section of the'".

## Amendmont 6

On page 2, line 16, after "new', insert "basic'".
Amendment 7
On page 2, line 17, after "effective", insert "July 1, 1976, and'".
Amendmant 8
On page 2, line 17, strike out ". Rates", and insert "thereafter. Such rates'".

## Amendment 9

On page 2, strike ont lines 23 to 30 , inclusive; and in line 31 , strike out "regional cost differentials."

Amendment 10
On page 2 , line 32 , strike out "department rate review", and insert "rate review by the rates and fees section of the department".

Amendment 11
On page 3, line 3, after the second "the", insert "Rates and Fees Section of the".

## Amendment 12

On page 3, line 4, after "shall", insert 'in addition to its annual adjustment',

## Amendment 13

On page 3, line 4 , after "the", insert "basic".
Amendment 14
On page 3 , strike out lines 7 to 9 , inclusive.

## Amendment 16

On page 3 , between lines 19 and 20, insert
"For the purposes of this section "skilled nursing facility" means as defined in Section 1250 of the Health and Safety Code

SEC 2 There is hereby appropriated from the General Fund in the State Treasury to the State Department of Health the sum of twelve million dollars ( $\$ 12,000,000$ ) for the purposes of reimbursements for skilled nursing facility care as provided in Section 14110.4 of the Welfare and Institutions Code."

Amendment 16
On page 3 , line 20 , strike out " 2 ", and insert " 3 ".
Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means.

## REPORTS OF STANDING COMMITTEES <br> Committae on Health

Assembls Chamber, June 26, 1075
Mr Speaker, Tour Committee on Health reports:
Assembly Bill No 2
With amendments with the recommendation- Amend, do pass, as ameuded, and be re-referred to the Commattee on Ways and Means.

KEENE. Churman
Above bill ordered to second reading.
SECOND READING OF ASSEMBLY BILLS-BY UNANIMOUS CONSENT
Pursuant to unanimous consent granted earlier this day, the following bill was taken up without reference to file, for purpose of second reading.

Assembly Bill No. 2-An act to repeal Article 45 (commencing with Section 2176) of Chapter 5 of Division 2 of the Business and Professions Code, and to amend Sections 441 18, and 12655 of, to add Part 4 (commencing with Section 1185) and Part 5 (commeneng with Section 1199) to Division 1 of, to repeal Section 44211 of, and to repeal Part 1.5 (commencing with Section 437) of Division 1 of, the Health and Safety Code, relating to herlth services and facilities, and making an appropriation therefor.

Bill read second time.

## Consideration of Committes Amendments

The following amendments, proposed by the Committee on Health, were read, and adopted:

Set No. 1
Amendment 1
In line 4 of the heading of the printed bill, as amended in Assembly June 18, 1975 , strike out "and Vincent Thomas", and insert "Vincent Thomas, Thurman, and Vasconcellos
(Coauthors•Senators Rains and Greene)",
Set No. 2
Amendment 1
In line 1 of the title of the printed bill, as amended in Assembly June 18, 1975, strike out "repenl Article 45 (commeneng with Seetion'"; strike out line 2; and in line 3, strike out "Professions Code ; and to".

## Amendment 2

In line 4 of the title, strike out "Part 4 (eommencing with Section 1185) and'.

## Amendment 3

In lines 8 and 9 of the title, strike out ", and making an appropriation therefor".

## Amendment 4

On page 46 , strike out lines 5 to 40 , inclusive; and strike out pages 47 to 56 , inclusive.

Set No. 3
Amendment 1
On page 7 , line 24 , of the printed bill, as amended in Assembly Jume 18, 1975, strike out the first comma, and insert "and".

On page 7, line 24, strike out "and rates".
Set No. 4
Amendment 1
On page 13 of the printed bill, as amended in Assembly June 18, 1975, strike out lines 8 to 10 , inclusive.

## Amendment 2

On page 13, line 16, strike out "and to''; strike out lme 17; 'and in line 18 , strike out "facilities'"

## Amendment 3

On page 14 , strike out lines 24 and 25.
Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means.

## MESSAGES FROM THE SENATE

Senate Chamher, June 26, 1975
Mr. Speaker: I am durected to inform sour honorable hods that the Sennte on this day adopted
Senate Concmirent Resolution No 2
DARRYI R. WHITE, Secretary of the Sepate
By John W. Rosine, Chief Asbistant Necretary
first reading and reference of senate bills
The followngy resolution was read:
Senate Concurrent Resolution No. 2-Relative to recess of the Legislature.

## ADJOURNMENT

At $6: 14 \mathrm{pm}$, Speaker McCarthy declared the Assembly adjourned until 830 a.m, Friday, June 27, 1975.
LEO T. McCARTHY, Speaker


## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DALIY JOURNAL

# TWENTY-EIGHTH LEGISLATIVE DAY FORTIETH CALENDAR DAY 

## IN ABSEMBLY

Assembly Chamber, Sacramento
Friday, June 27, 1975
The Assembly met at 11 :52 p.m.
Hon. John T. Knox, Member of the Assembly, 11th Distruct, presiding
Chief Clerk James D. Driscoll at the Desk. Assistant Clerk Ray Monday reading.

ROLL CALL
The roll was called, and the following answered to their names-78:

| Alatorre | Craten |
| :---: | :---: |
| Antonorich | Cullen |
| Arnett | Davis |
| Badham | Dedideh |
| Bane | Dixon |
| Bannai | Dufy |
| Berman | Ebrland |
| Ber erly | Fenton |
| Boatwright | Foran |
| Briggs | Garamendi |
| Brown | Goggin |
| Burke | Greene |
| Calso | Gualco |
| Camphell | Hart |
| Carpenter | Hajden |
| Chacon | Ingalls |
| Cbappe | Kapiloff |
| Chel | Keene |
| Chimbole | Kessor |
| Clme | Knox |

Lancaster
Lanterman
Lewis
Lwekyer
MacDoanld
Maddy
McAlister
MeLennan
McVittie
Meade
Muler
Mobley
Montosa
MMori
Murphy
Nestande
Nimmo
Papan
Perino

Priolo
Ralph
Antonotich Araett
Bane
Deadel
Duffy
Ebrland
Foran
Garamendi
Greene
Gualeo
Has den
Ingalls
Keene
Knox
Robinaon
Roqenthal
Hosenth
Siegler
Bannai
Berman
Boatwright
Briggs
Burke
Calio
Carpenter Chacon

Chel
Clune
Quorum present.
PRAYER
Upon invitation of Speaker McCarthy, the following prayer was offered by Reverend Dr Robert S Romeis, St John's Lutheran Church-
Almighty and Everiasting God, Give us the insight to see that budgets and figures and dollar signs are more than mk upon paper and
numbers that come out to neat balanees. Make us look beyond the obvious and see the millions of people who are affected, the programs that are advanced or reduced, the services given, and the hope promised. Grant that the budget approved by this body may not only speak in terms of money, but may shout to the world that this state government is one that is truly of the people, by the people, and for the people-AMEN.

## PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Acting Speaker Knox, Mr Burke then led the Assembly in the pledge of allegiance to the Flag.

## MOTION TO DISPENSE WITH READING OF THE JOUANAL

Further reading of the Journal of the prevous legislative day was dispensed with on motion of Mr. Siegler, seconded by Mr Whllam Thomas.

Leaves of absence for the day
The following Member was excused for the day, and his per diem was walyed:

Mr. Collier.

## REPORTS OF STANDING COMMITTEES

Committes on Health

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Assembly Cbamber, June 26, 1975
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Mr Speaker - Your Commitee on Health reports:
Assembly Bill No. 5
With umendments with the recommendation : Amend, do pass, as amended, and be re-referred to the Committee on Whys and Means,

KEENE, Chairman
Above bill ordered to second reading.
REQUEST FOR UNANIMOUS CONSENT TO TAKE UP SENATE CONCURRENT RESOLUTION NO. 2
Mr Ralph was granted unanimous consent to take up Semate Concurrent Resolution No 2 without reference to committee, print, or file.

Consideration of Senate Concurrant Resolution No. 2
Senate Concurrent Resolution No. 2-Relative to recess of the Legislature.

Resolution read, presented by Mr Ralph, and adopted by the followng vote.

| AYES-67 |  |  |  |
| :---: | :---: | :---: | :---: |
| Alatorre | Cline | Lanterman | Robinson |
| Antonosich | Cullen | Lockyer | Rosenthal |
| Arnett | Divon | Macloonnld | Stegler |
| Bane | Duffy | Maddy | Sterots |
| Bamam | Egeland | McAlister | Suitt |
| Berman | Feiston | McIsemata | Thomas, Vincent |
| Beverly | Foian | Meade | Thomas, William |
| Bontwright | Goggin | Moblev | Thurman |
| Hrukgs | Greene | Montosa | Torres |
| Brown | Gualco | Mor | Tasconcellos |
| Burke | Hart | Murphy | Vicencia |
| Calvo | Hay den | Nestande | Whrren |
| Camphell | Ingalls | Nimmo | Wilson |
| Carpenter | Kaptloft | Papan | Wornum, |
| Chacon | Kersor | Perino | Z'herg |
| Chapple | Knox | Priolo | Mr. Speaker |
| Chimbole | Lancaster | Ralph |  |
| NOES-7 |  |  |  |
| Chel | Deddeh | Keane | Miller |
| Dasis | Garamendi | McVittie |  |

Resolution ordered transmitted to the Senate.

## ADJOURNMENT

At 11.53 pm , pursuant to the provisions of Senate Concurrent Resolution No 2, Actme Speaker Kiox declared the Assembly adjourned until 9 a m., August $4,1975$.

LEO T. McCARTHY, Speaker
ANABEL FLEURY, Minute Clerk


## CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAIIY JOURNAL

## TWENTY-NINTH LEGISLATIVE DAY sEVENTY-EIGHTH CALENDAR DAY

## IN ASSEMBLY

Assembly Chamber, Sacramento
Monday, August 4, 1975
The Assembly met at 11 -56 a.m.
Hon Leo T McCarthy. Apeaker of the Ascembly, presiding.
Chief Clerk James D Driseoll it the Desk.
Assistant Clerk Ray Monday reading.
ROLL CALL
The roll was called, and the following answered to their names-75:

| Alatorre | Collier |
| :---: | :---: |
| Antonovich | Clasen |
| Armett | Cullen |
| Badham | Ditis |
| Bane | Dedileh |
| Banlima | 1) ${ }^{\text {dull }}$ |
| Berman | Duff |
| Berprly | Egeland |
| Boaturight | Fenton |
| Briges | Foran |
| Brown | Garninendi |
| Buke | Goghin |
| Caluo | Graene |
| Carpenter | Gualeo |
| Chacoll | Hart |
| Chapple | Hayden |
| Chel | Hughen |
| Chimbole | Ingalls |
| Cline | Kumber |

Quorum present.

| Keene | Papan |
| :---: | :---: |
| Kepsor | Perina |
| Knox | Priolo |
| Lancaster | Ralph |
| Tanterman | Robinzon |
| Lew is | Rosenthal |
| Lockyer | Siegler |
| Macltonatd | Sretoty |
| Madry | Suit |
| MeAliter | Thomas Vemeent |
| MeLernan | Thomas, Willam |
| Mçittie | Thuman |
| Meade | Torres |
| Miller | Tucker |
| Montoya | Vasconcellos |
| Mor | Vicencia |
| Murphy | Wilmon |
| Nestande | Mr. Speaker |
| Nımono |  |

## PRAYER

The following prayer was offered by the Chaplain, Father Leo McAlinter:

Lord. As we convene again in thes chamber. we turn to You to humbly ask that You help us to be more truly what we profess to be and more nobly whit we are called to be leet not the cares, the vietories or the defeats distract us from the tasks that byy before us Help us all in a sparit of shared brotheihood and responsibilaty to give to thas state and its people the very best we have.-AMEN,

## pledge of allegiance to the flag

Upon request of Speaker McCarthy, Mr. Fenton then led the Assembly in the pledge of allegrance to the Flag.

READING OF THE JOURNAL DISPENSED WITH
By unanimous consent, reading of the Journal of the previous legislative day was dispensed with.

## LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness

Mr. Camphell, on request of Speaker McCarthy.
The following Member was granted leave of absence for the day, on legislative busmess:

Mr Z'berg, on request of Speaker McCarthy.
The following Members were granted leaves of absence for the day, on personal busness, and desired to waive their per diem:

Mr Mobley, on request of Spaker McCarthy.
Mr. Warren, on request of Speaker McCarthy.
Mr Wornum, on request of Speaker McCarthy.

NOTE F For letter explaining the ahsence of M1 Z'berg on this tias on legisatatine business pursuant to the Assembly Rules, see Asserably Daly Jounal for the regulat session for this du,

## CONSIDERATION OF DAILY FILE SECOND READING OF ASSEMBLY BILLS

Assembly Bill No. 5-An act to amend Sections 125 5, 2100, 2101, $2119,2361,23615,2362,2364,23725,2436,2454$, and 2458 of, to add Article 11 (commeneing with Section 800) to Chapter 1 of Division 2 of, Sections $21005,21006,21007,21008,2101.5,2122$ to, Article 23 (commencing with Section 2123) to Chapter 5 of Division 2 of, and Sections 2372, 2372 1, and 24585 to, and to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, Artucle 23 (commenemg with Section 2123) of Chapter 5 of Division 2 of, and Section 2372 of, the Business and Professions Code, und to add Section 14132.5 to the Welfare and Institutions Code, relating to the healing arts, and making an appropration therefor.

Bill read spcond tme.

## Consideration of Committes Amendments

The following amendments, proposed by the Committee on Health, were read, and adopted:

## Amendment 1

On page 4, hne 7, of the printed bill, as amended in Assembly June 18, 1975, after "Examuers', msert a comma.

## Amendment 2

On page 11, lme 8, strike out ' one'', and insert a comma.

## Amendment 3

On page 11, line 9, strike out the comma.
Amendment 4
On page 11, line 10, after 'Examiners", insert a comma.
Amendmant 5
On page 11, line 25, after 'committees', insert ' ; and".
Amendment 6
On page 26, line 23, after " 6 ", insert " (commencing with Section 2210)'.

Amendment 7
On page 27, line 17, strike out "county census tract', and insert "census county'.

## Amendment 8

On page 27, line 18, strike out "and", and insert "or".
Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means

# AUTHOR'S AMENDMENTS <br> Committee on Judteiary 

Assernhly Chamber Aurust 4, 1875
Mr Spenker The Charman of rour Committee on Judicinry reports,
Assemhly Bill No 22
With author'a amendments with the recommendintion Amend, and re-refer to the Conmittee on Judienary

MIISIER, Chairman
Assembly Bill No. 22-An act to amend Section 2361 of, and to add Sections 805 and 21913 to the Busmess and Professions Code, to add Section 3333 I to, and to add Part 6 (commencong with Section 6000) to Division 4 of, the Civil Code, to repeat and add Section 3405 of the Code of Civil Procedure, and to add Section 18587 to the Insurance Code, relatmg to medical malpractice.

Bill read second time.

## Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules. were read, and adopted:

Amendment 1
In line 1 of the title of the printed bill, as amended in Assembly June 4, 1975, after " 805 ', insert ", 2122.7,'.

## Amendment 2

On page 4, between lines 13 and 14, insert
"SEC 15 'Section 21227 is added to the Business and Professions Code, to read:
2122.7 Each licensed general or specialized hospital shall report to the board, in such format as the board shall prescribe, any instance where the privileges of a heensed physician admitted to the medieal staff are revoked, limited, or restricted, and any instance where reappomtment to said stuff is denied Such report shall be made withm 15 days after such action becomes final."

- Amendment 3

On page 6, line 15, strike out 'workmen's', and insert "workers' '".
Amendment 4
On page 10, line 20, strike out "SEC. 3 ", and insert "SEC. 5."

## Amendmant 5

On page 10, line 22, strike out 'SEC. 4 ', and insert
"SEC. 6."'

## Amendment 6

On page 11, line 5, strike out "SEC. 5.", and insert "SEC. 7."

## Amendment 7

On page 11, line 8, after "policies", insert "of".
Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

## ADJOURNMENT

At 11.57 am , Speaker McCarthy declared the Assembly adjourned until 9 a m, Tuesday, August 5, 1975.

LEO T. MeCARTHY, Speaker
ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAIIY JOURNAL

THIRTIETH LEGISLATIVE DAY SENENTY-NINTH CALENDAR DAY

## IN ASSEMBLY

Assembly Chamber, Sacramento
Tuesday, August 5, 1975
The Assembly met at $10.06 \mathrm{a} . \mathrm{m}$.
Hon Walter M. Ingalls, Member of the Assembly, 68th District, presiding

Chief Clerk James D Driscoll at the Desk.
Assistant Clerk Ray Monday reading.
ROIL CALL
The roll was called, and the following answered to their names-76:

| Alatorre | Colher | Keysor | Papan |
| :---: | :---: | :---: | :---: |
| Antonovich | Graven | Knox | Permo |
| Arnett | Cullen | Lancaster | Priolo |
| Badham | Davis | Lanterman | Ralph |
| Bane | Deddeh | Lew 18 | Robinson |
| Bannai | Dixon | Lockyer | Rosenthal |
| Berman | Dufy | MacDonald | Slegler |
| Beverly | Egeland | Maddy | Sieroty |
| Boatwright | Fenton | McAlister | Sunt |
| Briggs | Froran | McLennan | Thomas, Vincent |
| Brown | Goggin | McVittie | Thomas, William |
| Burke | Gieene | Meade | Thusman |
| Calvo | Gualco | Miller | Torres |
| Carpenter | Hart | Mobley | Tucker |
| Ghacon | Hayden | Montoya | Vasconcellos |
| Chapple | Hughes | Morl | Vieenca |
| Chel | Ingalls | Murphy | Wulson |
| Chimbole | Kapiloff | Nestande | Wornum |
| Cline | Keene | Nimmo | Mi. Speaker |

Quorum present.

## REGULAR GUSINESS DISPENSED WITH

By unanimous consent, the regular order of busmess of the Assembly was dispensed with for this legislative day.

## LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr. Campbell, on request of Acting Speaker Ingalls.
The following Member was granted leave of absence for the day, on legislative business:

Mr. Z'berg, on request of Acting Speaker Ingalls.
The following Members were granted leaves of absence for the day, on personal business, and desired to weive their per diem:

Mr. Garamendi, on request of Acting Speaker Ingalls.
Mr. Warren, on request of Acting Speaker Ingalls.

NOTE: For letter axplaining the absence of Mr Z'berg on this day on legislative business pursuant to the Axsembly Rules, see Asmembis Dails Journal for the regular mesxion for August 4, 1975, page $\mathbf{7} 827$.

## COMMUNICATIONS

Assembly Chamber, Angust 5, 1975
Mr. Speaker: Purguant to your instructions, the Chief Clerk has examined:
Assembly Bill No. 5
Astembly Bill No, 22
And reports the same correctly engrossed.
JAMES D. DRISCOLL, Chief Clerk
Above bills re-referred to conamitiee.

# REPORTA OF STANDING COMMITTEES <br> Committea on Waye and Meane 

Asserably Chamber, August 5, 1875
Mr. Speaker : Your Committee on Wajs and Means reports:
Assembly Bull No 12
With the recompandation : Do paqs,
FORAN, Chairman
Above bill ordered to second reading.

## RECE88

At 10:07 a.m., Acting Speaker Ingalls declared the Assembly recessed.

REASSEMBLED
At 2:45 p.m., the Assembly reconvened.
Hon. Walter M. Ingalls, Member of the Assembly, 68th District, presiding.

## ADJOURNMENT

At 2:46 pm., Acting Speaker Ingalls declared the Assembly adjourned until 9 a.m., Wednesday, August 6, 1975.

LEO T. MeCARTHY, Speaker
ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

# ASSEMBIY DAIIY JOURNAL 

## THIRTY-FIRST LEGISLATIVE DAY <br> EIGHTIETH CALENDAR DAY

IN ASEEMBLT

Assembly Chamber, Sacramento
Wednesday, August 6, 1975
The Assembly met at $10: 23$ a m
Hon Louls J. Papan, Speaker pro Tempore of the Assembly, presiding.

Chief Clerk James D. Driscoll at the Desk.
Assistant Clerk Ray Monday reading.
ROLL CALL
The roll was called, and the following answered to their names- $\mathbf{7 9}$ :

| Alatorre | Colher | Keysor | Perino |
| :---: | :---: | :---: | :---: |
| Antonovich | Craven | Knox | Priolo |
| Arnett | Cullen | Lancaster | Ralph |
| Badham | Devis | Lanterman | Robinson |
| Bane | Deddeh | Lewis | Rosenthal |
| Bannai | Dixon | Lockyer | Siegler |
| Berman | Dufty | MacDonald | Sieroty |
| Beverly | Egeland | Maddy | Suitt |
| Boatwreght | Fenton | MeAlister | Thomas, Vincent |
| Briges | Foran | McLennan | Thomas, Wiliam |
| Brown | Garamendi | MeVittse | Thurman |
| Burke | Goggin | Meade | Torrea |
| Calvo | Greene | Miller | Tucker |
| Campbell | Gualco | Mobley | Yasconcellos |
| Carpenter | Hart. | Montoy'a | Vicencia |
| Chacon | Hayden | Mort | Warren |
| Chapple | Hughes | Murphy | Wilmon |
| Cbel | Ingalls | Nestande | Wornum |
| Chimbole | Kaprioff | Nimmo | Mr. Speaker |
| Cline | Keene | Papan |  |

Quorum present.

## REGULAR BUSINESS DISPENSED WITH

By unanimous consent, the regular order of business of the Assembly was dispensed with for this legislative day.

## (2)

## LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, on legislative business :

Mr. Z'berg, on request of Speaker pro Tempore Papan.

NOTE: For letter explaining the absence of Mr. V'berg on thir day on legislative busmess pursuant to the Assembly Rules, see Assembly Daly Journal for the regular aessuon for dugust 4, 197n, page 7K27.

## CONBIDERATION OF DAILY FILE 8ECONO READING OF ASSEMBLY BILLS

Assembly Bill No. 12-An act to add Article 7 (commencing with Section 11890) to Chapter 4 of Part 3 of Division 2 of the Insurance Code, relating to medical malpractice.

Bill read second time, and ordered to third reading.

## RECES8

At 10:24 a.m., Speaker pro Tempore Papan declared the Assembly recessed.

REABSEMBLED
At $2: 45$ p.m., the Assembly reconvened.
Hon. Louis J. Papan, Speaker pro Tempore of the Assembly, presiding.

## ADJOURNMENT

At 2:46 p.m., Speaker pro Tempore Papan declared the Assembly adjourned until 1 p.m., Thursday, August 7, 1975.
LEO T. MeCARTHY, Speaker
ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAILY JOURNAL

# THIRTY-SECOND LEGISLATIVE DAY <br> EIGHTY-FIRST CALENDAR DAY 

## IN AgSEMBLY

Assembly Chamber, Sacramento
Thursday, August 7, 1975
The Assembly met at 4:24 p m.
Hon. Leo T. MeCarthy, Speaker of the Assembly, presiding.
Chief Clerk James D Driscoll at the Desk.
Assistant Clerk Ray Monday reading.
ROLL CALL
The roll was called, and the following answered to their names-79:

| Alatorre | Collier | Keysor | Peruno |
| :---: | :---: | :---: | :---: |
| Antonor ich | Craven | Knox | Priolo |
| Arnett | Cullen | Lancaster | Ralph |
| Badham | Davis | Lanterman | Robinson |
| Bane | Deddeh | Lewns | Rosenthal |
| Bannai | Dixon | Lockyer | Suegler |
| Berman | Dufy | Macllanald | Sieroty |
| Beverly | Egeland | Maddy | Suitt |
| Boatwright | Fenton | MeAlister | Thomas, Vincent |
| Bruggs | Foran | MeLennan | Thomas, William |
| Hrown | Gatamendi | MeVitte | Thurman |
| Burke | Goggin | Meade | Torres |
| Calvo | Greene | Miller | Tucker |
| Camplell | Gunleo | Mobley | Vasconcellos |
| Carpenter | Hart | Montoya | Vicencia |
| Clacon | Hayden | Mori | Warren |
| Chappse | Hughes | Murphy | Wilson |
| Chel | Ingralls | Nestande | Wornum |
| Chimbole | Kapalof | Nimmo | Mr. Speaker |
| Clute | Keene | Papan |  |

Quorum present.

## (2)

PRAYER
The following prayer was offered by the Chaplain, Father Leo McAllister:

We Come to You, Our God, Because we need You You have enriched us with so many blessings and attributes, but in times such as thase we need Your help Despite our many years and efforts on this planet we still have wars, hunger, and disease Our efforts in this chamber may do little to solve the world's problems but they can do much to solve those of our state Heip us, God, to bend to the trask of healing, mending, and preserving-AMEN.

## pledge of allegiance to The flag

Upon request of Speaker McCarthy, Mr. Brown then led the Assembly in the pledge of allegiance to the Flag

## MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr Calvo, seconded by Mr. Berman.

## LEAVES OF ABSENGE FOR THE DAY

The following Member was excused for the day, and his per diem was waived:

Mr. Z'berg.
REPORTS OF STANDING COMMITTEES
Committer on Health
Arpembly Cbamber, June 29, 1975
Mr. Speaker - Your Committee on Health reports.
Assembly Bill No. 4
Wath nmendments with the recommendation Amend, do pnsa, ns amended, and be re-referred to the Committee on Wiss and Means.

KEENE, Chairman
Above bill ordered to second reading.
ADJOURNMENT
At $4: 25 \mathrm{pm}$., Speaker McCarthy declared the Assembly adjourned until 9 a.m, Monday, August 11, 1975.

LEO T. McCARTHY, Speaker
ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAIIY JOURNAL

# THIRTY-THIRD LEGISLATIVE DAY <br> EIGHTY-FIFTH CALENDAR DAY 

## IN ASSEMBLY

Assembly Chamber, Sacramento<br>Monday, August 11, 1975

The Assembly met at 10.33 am .
Hon Lee T MeCarthy, Speaker of the Assembly, presiding.
Chief Clerk James D Driscoll at the Desk.
Assistant Clerk Ray Monday reading.
ROLL CALL
The roll was called, and the following answered to their names- 80 :

| Alatorre | Collser | Keysor | Perino |
| :---: | :---: | :---: | :---: |
| Antonorich | Ciaven | Knox | Priolo |
| Armett | Cullen | Lancaster | Raljh |
| Badham | Davis | Lanterman | Rabinson |
| Bane | Deddeh | Lewis | Rosenthal |
| Bannat | Dixon | Lochyer | Siegler |
| Berman | Dufiy | MacDonald | Sleroty |
| Beverly | Egeland | Maddy | Suitt |
| Bortwright | Fenton | McAlister | Thomas, Vincent |
| Briges | Foran | McLennan | Thomas, Willam |
| Brown | Garamend | McVittie | Thurman |
| Burke | Gogrin | Meade | Torres |
| Calvo | Greene | Miller | Tucker |
| Campbell | Gualco | Mobley | Vasconcellos |
| Carpenter | Hart | Montoya | Vicencia |
| Chacon | Hayden | Mon | Warren |
| Cbsppre | Highes | Murphy | Wilson |
| Chel | Ingalls | Nestande | Wornum |
| Chimbole | Kapuioff | Nimmo | Z'berg |
| Cline | Keene | Papan | Mr. Speaker |

## prayer

The following prayer was offered by the Chaplain, Father Leo McAllister:

Father, We pray for the suecess of programs which are designed to help our brothers and sisters in need-the poor, the aged, the ill Keep us mindful that they are created in Your image and thus possess a dignity unsurpassed in Your ereation Help us to respect that dignity and freedom with the utmost delicacy Justice must precede our charity and not be confused with it. Save us in this endeavor from seeking personal advantage or dominion over those who are helped in their need.

Help us to plan in such a way that those in need will eventually be freed from ther dependence on others and become self-sufficient AMEN.
pledge of allegiance to the flag
Upon request of Speaker MeCarthy, Mr. Vasconcellos then led the Assembly in the pledge of allegiance to the Flag

## MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Calvo, seconded by Mr. MacDonald.

## CONSIDERATION OF DAILY FILE SECOND READING OF ASSEMBLY EILLS

Assembly Bill No. 4-An act to add Division 18 (commencing with Section 22000) to the Health and Safety Code, relating to health, and making an appropriation therefor.

Bill read second time.
Consideration of Committes Amendmente
The following amendments, proposed by the Committee on Health, were read, and adopted:

## Amendment 1

In line 1 of the heading of the printed bill, as amended in Assembly June 20, 1975, strike out "Assemblyman Goggin", and insert "Assemblymen Goggin and Duffy'.

## Amendment 2

In lines 2 and 3 of the title, strike out ", and making an appropriation therefor".

## Amendment 3

On page 5, strike out lines 15 to 20 , inclusive, and insert "licensed as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or a practitioner licensed pursuant to the Osteopathic Initiative Act."

## Amendment 4

On page 5, line 40, after "years", insert "at the time of their appointment''.

## Amendment 5

On page 6, line 7, after "yeurs', insert ", at the time of his or her appointment'"

Amendment 8
On page 6, line 8, strike out "should", and insert "shall".
Amendment 7
On page 6. line 9, after "administrator", insert ", at the time of his or her appointment"'.

## Amandment 8

On page 10, lue 16, strike out "act", and insert "chapter".
Amendment 9
On page 10, line 36, strike out "said", and insert "such".
-
Amondment 10
On page 11, line 10, strike out "sand'", and insert 'such".
Amendment 11
On page 11, line 31, strike out "evaluated", and insert "prescribed".
Amendment 12
On page 11, line 37, ufter the period, insert "Such proceedings shall be open to the public Notice of the hearings shall be published at least 10 days in advance."

Amendment 18
On page 12, line 28, strike out "May", and insert "July'.
Amendment 14
On page 13 , strike out lines 5 to 10 , inchusive.

## Amendment 15

On page 13 , line 11, strike out "SEC. 3 "', and insert
"SEC. 2".
Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means.

## THIRD READING OF ASSEMBLY BILLS

Assembly Bill No. 12 (Bane)-An act to add Article 7 (commencelig with Surtion 118!0) to ('hipter 4 of Part 3 of Division 2 of the Insurance Code, relating to medical malpractice.

Bill read third time, and passed by the following vote:

| AYES-71 |  |  |  |
| :---: | :---: | :---: | :---: |
| Alatorre | Cline | Knox | Ralph |
| Antonovich | Craven | Lancaster | Robinson |
| Arnett | Culten | Lanterman | Rosentbal |
| Badham | Davis | Lewis | Slegler |
| Bane | Deddeh | Lockyer | Suitt |
| Bannai | Dixon | MacDonald | Thonas, Yincent |
| Berman | Dufity | Maddy | Thumman |
| Beverls | Fenton | McAlister | Torres |
| Boatwright | Forin | McYittie | Tucker |
| Briggs | Goggin | Miller | Tucker |
| Burke | Greene | Mobley Montoya | Vasconcelios Vicencia |
| Calve | Gualeo | Montoya | Wheencla |
| Campbell | Hayden Hughes | Nestande | Wilson |
| Chacon | Ingalls | Nummo | Wornum |
| Chappie | Kapiloft | Papan | Z'berg |
| Chel | Keene | Perino | Mr. Speaker |
| Chimbole | Keysor | Priolo |  |
| NOES-None |  |  |  |

Bill ordered transmitted to the Senate.

## ADJOURNMENT

At 10:37 a.m, Speaker McCarthy declared the Assembly adjourned until 9 a.m., Tuesddy, August 12, 1975.

LEO T. MeCARTHY, Speaker
ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBIY DAIIY JOURNAL <br> THIRTY.FOURTH LEGISLATIVE DAY EIGHTY-SIXTH CALENDAR DAY

## IN ASBEMBLY

Assembly Chamber, Sacramento
Tuesday, August 12, 1975
The Assembly met at 956 a.m.
Hon. Loms J. Papan, Speaker pro Tempore of the Assembly, presiding.

Chef Clerk James D. Driscoll at the Desk.
Assistant Clerk Ray Monday reading.
ROLL CALL
The roll was called, and the following answered to their names-79:

| Alatorre | Collier |
| :---: | :---: |
| Antonovich | Craven |
| Arnelt | Cullen |
| Batham | Duvis |
| Bane | Deikeh |
| Bannat | Iuffy |
| Berman | Ezeland |
| Beyealr | Feirton |
| Roatwright | Foran |
| Hrums | Garamendt |
| Bronn | (rogem |
| Hutke | Greene |
| Calso | Gunico |
| Campbell | Hatt |
| Carpenter | Hasden |
| Chacon | Hughes |
| Chapple | Ingalls |
| Chel | Kajulofir |
| Chimbole | Kpene |
| Cline | Ker mor |



Priolo
Ralph
Robinson
Roventhal
Siegler
Sieroty
Sutt
Thomas, Fincent
Thomas, William
Thomas,
Turres
Tucker
Fancroncellos
Vicencia
Warren
Wulson
Wornum
$Z$ berg
Mr. Speaker
Quorum present.

## REGULAR BUSINESS DISPENSED WITH

By unanimous consent. the regular order of business of the Assembly was dispensed with for this legislative day.

## LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr. Dizon, on request of Speaker pro Tempore Papan.

## COMMUNICATIONS

Assembly Chamber, August 12, 1975
Mr. Speaker: Pursuant to your instructions, the Chiet Clerk has examined.
Assembly Bill No. 4
And reports the same correctly engrossed.
JAMES D DRISCOTAL, Chef Clerk
Above bill re-referred to committee.

## RECESS

At 957 a.m., Speaker pro Tempore Papan declared the Assembly recessed.

## REASSEMBLED

At $2.45 \mathrm{p} . \mathrm{m}$, the Assembly reconvened
Hon. Louis J. Papan, Speaker pro Tempore of the Assembly, presiding.

## REPORTS OF STANDING COMMITTEES <br> Committee on Waye and Means

Assembly Chamber, August 12, 1975
Mr Speaker - Your Committee on Wazs and Means reports:
Assembly Bill No. 35
With amendments with the recommendation ' Amend, and do pass, as amended.
FORAN, Cbarman
Above bill ordered to second reading.
Aasembly Chamber, August 12, 1973
Mr Speaker Your Committee on Wajs and Meamb reports:
Assembly Bill No 10
Assembly Bill No. 28
With the recommendation: Do pase,
FORAN, Chairman
Above bills ordered to second reading.
ADJOURNMENT
At 2:46 pm., Speaker pro Tempore Papan declared the Assembly adjourned until 9 a m., Wednesday, August 13, 1975.

LEO T. MeCARTHY, Speaker
ANABEL FLLEURY, Minute Clerk

CALIFORNIA LEGISLATURE
1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAILY JOURNAL

## THIRTY-FIFTH LEGISLATIVE DAY EIGHTY-SEVENTH CALENDAR DAY

## IN A8SEMBLY

Assembly Chamber. Sacramento
Weduesday, August 13, 1975
The Assombly met at 1031 a m
Hon Lous J. Papan, Speaker pro Tempore of the Assembly, presiding

Chief Clerk James D Driscoll at the Desk.
Assistant Clerk Ray Monday reading.

## ROLL CALL

The roll was called. and the following answered to their numes-77:

| Alatorre | Cullen | Knov | Perino |
| :---: | :---: | :---: | :---: |
| Antonos ich |  | Ianchuter | Pruolo |
| Arnett | Devicheh | Jonntorman | Ralph |
| Batham | Inton | Lewis | Rulanson |
| Bane | 1)ufis | fackier | Fureinthal |
| Bnnmai | Figeland | Macllomald | Sirepler |
| 1303prly | Fenton | Mnidy | Siemity |
| Buatwrixht | Forna | MeAlister | Thomas, Vincent |
| Hrown | Cinamencla | MiJamuan | Thonnas William |
| Burke | Gorgin | MeVittie | Thum man |
| Calue | (ireene | Merate | Torien |
| Campurell | (itunico | Millar | Tuker |
| Cimpenter | Hart | Mabley | Tasconceltos |
| Chancors | Has den | Montos a | Ticuncia |
| charue | Hughes | Muri | Warren |
| Chel | Ingails | Muiphy | Wilsen |
| c'lumbule | Kitulafe | Nestande | Wornum |
| C'line | Feene | Nimmo | Z'lierg |
| Collipr | lieznor | Iapar | Mr. Hpeaker |
| Claten |  |  |  |

Quorum present.
REGULAR BUSINESS DISPENSED WITH
By unanimous consent. the regular order of business of the $\Lambda$ ssembly was dispenved with for thas legislative day.

## LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr, Briggs, on request of Speaker pro Tempore Papan
The following Members were granted leaves of absence for the day, on personal business, and desired to waive their per diem :
Mr Berman, on request of Speaker pro Tempore Papan.
Mr. Suitt, on request of Speaker pro Tempore Papan.

NOTE For letter explaining the nosence of Mr Rerman on thas dny, see Assembly Daly Jonrual for the regular sessuen for thas day.

## CONBIDERATION OF DAILY FILE SEGOND READING OF ASSEMBLY BILLS

Assembly Bill No. 35-An act to add Section 14110.4 to the Welfare and Institutions Code, relating to Medı-Cal, making an appropriation therefor, and deelarmg the urgency thereof, to take effect immedately.

Bill read second time.

## Consideration of Committea Amendments

The following amendments, proposed by the Committee on Ways and Means, were read, and adopted:

## Amendment 1

In line 2 of the title of the printed bill, as amended in Assembly June 26, 1975, strike out ", making an appropriation therefor,"; strike out lines 3 and 4, and insert a period.

## Amendment 2

On page 2, strike out lines 3 to 15 , inclusive, and insert
"'14110 4. Effeetıve August 4, 1975, Medı-Cal basic per patient-day payment for skilled nursing facility care and intermedıate facility care shall not be less than the rates in effect in licensed bed capacity categories described in the department's rerulatious."

## Amendment 3

On page 2, line 17, after "care", msert "and mermediate facility care".

## Amendment 4

On page 2, line 22, after "facilities', insert "and for intermedtate facility care".

## Amendment 5

On page 3, line 2, after "review ", mest "Such consumer price index increases whall reflect changes occurring up to the date the new rates are to be implemented. ${ }^{\text {" }}$

## Amendment 6

On page 3, strike out lines 26 to 35 , inclusive, and insert
"Such rates and any changes in such rates pursuant to this rection shall be further adjusted as determined by the department when a comprehensive health planning area is affected by economic fartors which merit additional reimbursement. The department, npon reguest of 70 percent of the providers of skilled nursing facilities or intermediate facility care in a comprehensive health planning area, shall conduct a study of costs in that area to determine whather there exists an area cost differentıal.

The department shall report to the Legislature by February 1 of each year the result of its cost review and the proposed rates to be paid for skilled nursing facility care and intermediate faclity care in the fisenl year commencing with July 1 of each year."

## Amendmont 7

On page 3, line 37, after "facility" ", insert "and an "intermediate care fachlity" ".

## Amendment 8

On page 3, strike out lines 39 and 40 ; and strike out page 4.
Bill ordered reprinted, and returned to the second reading file.
Assembly Bill No. 10-An act to add Article' 8 (commencing with Section 1325) to Chapter 2 of Division 2 of the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately.

Bill read second time, and ordered to third reading.
Assembly Bill No. 28-An act to add and repeal Section 11587 of the Insurance Code, relating to malpractice insurance, and decharing the urgency thereof, to take effer immediately.

Bill rend second time, and ordered to third reading.
RECESS
At 10:32 a.m., Speaker pro Tempore Papan declared the Assembly recessed.

## REASBEMBLED

At $2 \cdot 45 \mathrm{pm}$, the Assembly reconvened.
Hon. Louis J. Papan, Speaker pro Tempore of the Assembly, presiding.

## adjournment

At 2.46 pm , Speaker pro Tempore Papan declared the Assembly adjourned until 1 pm , Thursday, August 14, 1975.

LEO T. MeCARTHY, Speaker
ANABEL FLEURY, Minute Clerk
i


## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAILY JOURNAL

## thirty-sixth legislative day EIGHTY-EIGHTH CALENDAR DAY <br> IN ABSEMBLY

Assembly Chamber, Sacramento Thursday, August 14, 1975
The Assembly met at 441 pm .
Hon Leo T McCarthy, Spedker of the Assembly, presiding.
Chief Clerk James D. Driscoll at the Desk.
Assistant Clerk Ray Monday reading

## ROLL CALL

The roll was called, and the following answered to their names-79:

| Alatorie | Cumen | Knox | 1'ıolo |
| :---: | :---: | :---: | :---: |
| Antonovich | Cullen | Lanmenster | Ralph |
| Arnett | Dasis | Lanterman | Rulumson |
| Hant | 1 edileh | Lewis | Rosenthal |
| Banuai | Ininom | Lockser | Sieprier |
| Berman | Bufy | Mactimatd | Siesuty |
| Bereuty | Cageland | Matds: | Siutt |
| Boaturight | Fellton | Mrdister | Thomas, Yincent |
| Bligge | Foran | Mr T.uman | Therums, Willam |
| brumn | Garamends | Melittie | 'Thermant |
| Burke | (iogem | Meate | Tousen |
| Calso | (irpene | Miltrer | Jucker |
| Cnumbell | guateo | Mobitey | Yiveoncellos |
| Carpenter | Hurt | Mintosa | Vecmen |
| Chamol | Havden | MoL | Warin |
| Champe | Hughes | Murphy | Wilvon |
| Chel | Ingnils | Xestande | Wornum |
| Chumbole | Kapioff | Nimmo | Zorig |
| Cline | Kepue | l'np.un | Mr Npeaker |
| Collier | Kezsor | letino |  |

Quorum present.

## PRAYER

The following prayer was offered by the Chaplain, Father Leo MeAllister:

God, Our Father, You speak in silence, and all languges interpret, You. You are the truth of all words, their permanence and their comfort, and every man who lastens with an open mund can hear You in his own language and in his own life Put words into our mouth, then. that comfort and shed hight, make us alive to justice and to right. groan in us for a new creation, gude our hearts and our fath, het bur thoughts and our labors be frattul and give us the brond of peare. -AMEN.

> PLEDGE OF ALLEGIANCE TO THE FLAG

Upon sequest of Speaker MuCurthy, Mr Collier then led the Assembly in the pledge of allegrance to the Flag

MOTION TO DISPENSE WITH READING OF THE JOURNAL
Further redding of the Journsl of the prevous legislative day was dispensed with on motion of Mr Beverly, seconded by Mr Berman.

## LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of dbsence for the day, on personal business, and desired to wave his per diem.

Mr. Bıdham, on request of Speaker pro Tempore Papan.

## COMMUNICATIONS

Assembly Chamber, August 14, 1975
$M_{1}$ Speaker- Pursuant to your instructions, the Chef Clerk has pammed Assembly Bill No $3 \overline{\text { an }}$
And reports the same colrectly engrossed.
JAMPA D DRISCOLL, Chef Clerk
Above bill ordered returned to second reading file.

# REPORTS OF STANDING COMMITTEES <br> Cammittee on Ways and Means 

Ascemuli Chamber, Angust 12, 197:)
Mr Spenker Your Commitiee on Wiss and Mema reponts Assembly Bill No. $\overline{0}$
With amendments with the recommendation: Amend. and do pass, ns amended
FORAN, Chamman
Above bill ordered to second reading

## CONSIDERATION OF DAILY FILE ASSEMBLY BILLS RETURNED TO SECOND READING FILE PURSUANT TO THE RULES

Pursuant to the Assembly Rules, the followng Assembly bill was this day on the second reading file.

Assembly Bill No. 35, ordered to third reiding

## THIRD READING OF ASSEMBLY BILLS

Assembly Bill No. 10 (Goggin) - An act to add Article 8 (commencing with fereton 1825) to Chapter 2 of Dumon $\because$ of the llealth and Safety Code reldme to health, and declamg the aremey thereof, to take affect mmediately.

Bull read third tume.

## Urgency Ciauso

Urgency clause read，and refused adoption by the following vote：

| AYES－21 |  |  |  |
| :---: | :---: | :---: | :---: |
| Bane | Greene | Miller | Sierotr |
| Berman | Gualco | T＇apmn | Thuman |
| Boatrught | Krpiofi | Rulph | Wilson |
| Calso | Kerne | Romenthal | Wornim |
| Dizon | MeAlister | Siegler | Mr．Speaker |
| NOES－49 |  |  |  |
| Alatorre | Craven | Kersor | Montora |
| Antonorich | Culleu | Knos | Murins |
| Armett | Divis | Lamenster | Nestande |
| Banual | Ieddeh | Lanterman | Nimmo |
| Briggs | Tuff | Lewr | Petino |
| Brown | Preland | Lochyer | Prinlo |
| Bure | Penton | Maclomald | Rulinson |
| Camplell | Fornm | Miadhy | Thomas，Vincent |
| C．upenter | Garnmendi | McTemman | Thomas，Willam |
| Chaprie | Hatt | Mic Vittie | Torles |
| Chel | Hay den | Meade | Vasenncellos |
| Chmbole | Hughes | Mabley | Vicencia |

The question being on the passage of the bill．
Bill refused passage by the following vote：

| AYES－21 |  |  |  |
| :---: | :---: | :---: | :---: |
| Bane | Greene | Minler | Sieroty |
| Berman | Gualeo | Prpan | Thmman |
| Boatwright | Kapiloff | Rnlyh | Wilson |
| Criso | Keene | Rocenthal | Wornum |
| $\mathbf{1 b N o u}^{\text {¢ }}$ | MeAlrster | Siegler | Mr．Spenker |
| NOES－49 |  |  |  |
| Alatorre | Craver | Kevem | Montexa |
| Antonovich | Cullen | Kıns | Mu1ph |
| Arneti | buys | Laucoster | Nestumde |
| Bamma | Impldeh | Santermun | Nimmo |
| Brues | Lufts | 士心以に | L＇erino |
| Brown | Egeland | I，omber | Priolo |
| Burke | Fellton | Mas 1 monald | Rohimson |
| Camphell | Foram | Miadis | Thomia Vincent |
| Cunpenter | Ginammendi | 3hanmutan | Thomis，Willam |
| Clatpue | Hatt | Me\itue | finter |
| Chel | Handen | Mradr | Vinconecelos |
| Chimbole | Hughes | Mobley | Yuenta |

Speaker pro Tempore Presiding
At 5.10 pm ，Hon Louis J Papan，19th District，presidung
Assembly Bill No． 28 （Maddy）－An act to add and repeal Section 11587 of the Tusurance Code，relating to malpractuce insurance，and declarmg the urgeney thereof，to take effect mmediately．

Bill read third tume．

## Urgency Clause

Urgency clause read, and adopted by the following vote:

| AYES-72 |  |  |  |
| :---: | :---: | :---: | :---: |
| Alatorre | Craven | Key sor | Perino |
| Antonovich | Cullen | Khox | Priolo |
| Bane | Davis | Lewis | Ralph |
| Bammai | Deddeh | Lockser | Robinson |
| Berman | Dison | Maebonald | Rosenthal |
| Beverly | Duff | Madily | Siegler |
| Boatwright | Egeland | Mcaisiter | Sieioty |
| Briggs | Fenton | Mclemnan | switt |
| Brotin | Gardmendi | McVittie | Thomas, Yincent |
| Bure | Gogem | Meade | Thumas, Willam |
| Calvo | Greene | Miller | Thun mav |
| Camphell | Gualeo | Mrotiley | Torres |
| Carpenter | Hart | Mlontoya | Yavconcellos |
| Chncon | Hasten | Mor' | Ficencia |
| Chappre | Hughes | Muphy | Wilson |
| Chel | Ingalls | Nestaucle | Wounim |
| Chimbole | Kapulof | Nimmo | Z'berg |
| Collier | Keene | Papan | Mi Speaker |
| NOES-3 |  |  |  |
| Arnett | Foran | Lancaster |  |

The question being on the passage of the bill.
Bill passed by the following vote:

| AYES-72 |  |  |  |
| :---: | :---: | :---: | :---: |
| Alatorre | Craven | Ket sor | Perino |
| Antonotich | Cullen | Knox | Priolo |
| Bane | Dasis | Lewis | R.thus |
| Bamuai | Deddeh | Lockyer | Ruhinand |
| Ferman | Divon | Muebouald | Roventhal |
| Bereily | Duffr | Miadidy | Sterler |
| Bontw right | Egeland | McAlister | Sieloty |
| Briges | Fenton | 3fetemman | Sutt |
| Brown | Gatamende | Mavitue | Tlynas, Vmeent |
| Buthe | Gostin | Mreade | Thoma, Willam |
| Coluo | Girene | Miller | Thum man |
| Campleelt | Gualco | Mobley | Turs |
| Calpenter | Hait | Mantosa | Yaseoncellos |
| Chiteon | Havden | Mort | Ficenema |
| Chapple | Hughes | Musphy | Wimon |
| Chel | Ingalk | Nentmule | Wornam |
| Chambole | K.priluf | Nimmo | Zherg |
| Collzer | Kenne | 1'np.in | Mr. Spenker |
| NOES-3 |  |  |  |
| Arnett | Foran | Lancaster |  |

Bill ordered transmitted to the Senate.

## ADJOURNMENT

At 523 pm ., Speaker pro Tempore Papan declared the Assembly adjourned untıl 11 a m, Friday, August 15, $197 \overline{5}$.

LEO T. MeCARTHY, Speaker
ANABEL FLELRY, Minute Clerk

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

# ASSEMBIY DAIIY JOURNAL 

# THIRTY-SEVENTH LEGISLATIVE DAY EIGHTY-NINTH CALENDAR DAY 

## IN Assembly

Assembly Chamber. Sacramento Friday, August 15, 1975
The Assembly met at 1156 a m.
Hon Leo T. McCarthy, Speaker of the Assembly, presiding Chief Clerk James D. Driscoll at the Desk. Assistant Clerk Ray Monday reading.

## ROLL CALL

The roll was called, and the following answered to their names-76:

| Alatorre | Cline |
| :---: | :---: |
| Antonovich | Collter |
| Arnett | Crasen |
| Badham | Cullea |
| Bane | Davis |
| Bannar | Dedideh |
| Beiman | Dixon |
| Bexerly | Duty |
| Boatwrght | Fseland |
| B1iggs | Fenton |
| Blown | Foran |
| Buke | Gurnmend |
| Calro | (hogeiv |
| Camphell | Greene |
| Carpmenter | Gualco |
| Chacon | Hart |
| Chnpple | Havden |
| Chel | Hughes |
| Chimbole | Kapiloff |


| KeeneKıox |  |
| :---: | :---: |
|  |  |
|  | Lancaster |
| Lanter man |  |
| Lewis |  |
| Lockjer |  |
|  | MacIonald |
| Maddy |  |
| Medister |  |
|  | Melsanan |
| McViltie |  |
| Meade |  |
|  |  |
| Moliley |  |
| Montosa |  |
| Mort |  |
| Murpby |  |
| Nestinde |  |
| Nimmo |  |

Pepan
Perino
Priolo
Ralph
Robinson
Bane
Beiman
Beterly
Puga
Blown
Buike
Calvo
(logetio
Greene
Hart
Havden
Hughes
Kaploff
Nestande
Hoventhal
Hoventh
Slepler
Sieroty
Suitt
Thomas, Yucent
Thomas, Wham'
Thurman
Toures
Visconcellos
Vicencia
Vilsun
Chapple
Chimbole

PRAYER
The following prayer was offered by the Chaplain, Father Leo McAllister.

Lord, Make us always conspious of our purpose and usefulmess in this world. Help us to see and use new opportunties to make all of us more truly human in this period in hastory May we make what is still vold und umnhabitable a place fit to live in, and what is meanngless and inhuman bear fruit and give happuess Itelp us to make a new world of serviee and peace.-AMEN.

## PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker MuCartlyy, Mr Hart then led the Assembly in the pledge of allegrance to the Flag

MOTION TO DISPENSE WITH READING OF THE JOURNAL
By unanmous consent, further reading of the Journal of the previous legislative day was dispensed with

## LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness.

Mr. Tucker, on request of Speaker McCarthr.
The following Members were granted leaves of absence for the day, on legislative business:

Mr Ingalls, on request of Speaker McCarthy
Mr. Warren, on request of Speaker MeCarthy.
The following Member was granted leave of absence for the day, on personal busmess, and desired to wave his per diem-

Mr. Keysor, on request of Speaker McCarthy.

NOTE For letters explaning the ahsences of Mears Ingalis and Waren on this das on legislatue hummes puisumt to the Assembly Rules, see Asnembly Duly Jonnial for the regulat wemon for thas day

## CONSIDERATION OF DAILY FILE SECOND READING OF ASSEMBLY BILLS

Assembly Bill No. 5-An act to amend Sections 125 5. 2100, 2101. $2119,2361,23615.2362,2364,23725$ 2436, 2454, and 2458 of, to add Artucle 11 (commeneng with Section 800) to Chapter 1 of Disison 2 of, Sections $21005,21006,2100$ 7. 21008.2101 5. 2122 to. Article 23 (commencing with Section 2123) to Chapter 5 of Division 2 of, and Sections 2372, 23721, and 24585 to, and to repeal Artule 11 (commencing with Seption 800) of Chapter 1 of Ducison 2 of. Article 23 (commeneing with Section 2123) of Chapter 5 of Division 2 of, and Section 2372 of, the Business and Professions Code, and to add Section 141325 to the Welfare and Institutions Code, relatung to the healing arts, and making an appropriation therefor.

Bill read second time.
Consideration of Committee Amendments
The following amendments, proposed by the Committec on Wars and Means, were rend, and adopted.

## Set No. 1

Amendment 1
In line 12 of the title of the printed bull, as amended in Assembly August 5, 1975, strike out ", and making an appropriation therefor".

## Amendment 2

On page 25, strike out lines 36 to 40 , inclusive; on page 26 , strike out line 1, and insert
"SEC 25. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be an appropriation made by this act becanse the additional net costs, if any, imposed on local government by this act are insigniftcant in nature-and will not cause any financial burden on local government.'"

## Set No. 2

Amendment 1
On page 25 of the printed bill, as amended in Assemblv August 4, 1975, between lines 35 and 36 , insert
"This section shall have no force and effect after January 1. 1979. The Legislative Analyst shall report to the Legislature by August 1, 1978, on the extent to which the number of physicians practucing and taking Medi-Cal patients in underserved areas has increased as a result of the enactment of this section."

Bill ordered reprinted, and returned to the second reading file.

# MESSAGES FROM THE SENATE 

Senate Chamber, August 14, 1975
Mr. Speaker - I am directed to inform your honomble body that the Senate on this day passed:

Senate Bull No 1
Senate Bill No. 7
DARRYT, $R$ WHITE, Secretars of the Semate
By John W Rovane, Chief Assistant Secretary
FIRST READING AND REFERENGE OF SENATE BILLS
The following bills were read the first time, and ordered held at the Desk:

Senate Bill No. 1-An act to ampnd Sections $1255,2100,2101$, $2116,2119,2361,23615,2362,2364,23725,2436,2454,2456$, and 2458 of, to add Sections $21005,21006,21007,21008,21015,21016,2122$, 2372, and 23721 to, to add Artucle 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Artiele 23 (commenemg with Section 2123) and Article 24 (commencing with Section 21245) to Chapter 5 of Division 2 of, to repeal Section 2372 of, to repeal Article 11 (commenemg with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 23 (commeneing with Section 2123) of Chater 5 of Divison 2 of, the Busmess and Profensions Code, to add Artucle 5 (commencing with Section 3362) to Chapter 2 of Title 2 of Part 1 of Division 4 of the Civil Code, to repeal and add Section 340 5 of, and to add Chapter 5 (commencing with Section 3(it) to Title 2 of l'at 2 of the Code of Civil Procedure, to add Section 11.59 to the Einlence Code. and to add and repeal Chapter 5 (commencma with Section 11890) to Part 3 of Division 2 of the Insurance Code, relating to malpractice.

Senate Bill No. 7-An act to amend Sections $1255,2100,2101$, 2116, 2119, 2361, $23615,2362,2364,23725,2436,2454,2456$, and 2458 of, to add Sections $21005,21006,21007,21008,21015,21016,2122$, 2361 3, 2372, and 23721 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Article 23 (commencing with Section 2123) and Article 24 (commeneing with Section 2124.5) to Chaptes 5 of Division 2 of, to add Article 85 (commeneing with Section 6146) to Chapter 4 of Division 3 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 2.3 (commenemg with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code; to amend Section 438 of, and to add Section 33331 to the Cival Code, to amend Sections 3405 and 10945 , of and to add Section 6677 to, the Code of Civil Procedure; to add Division 17 (commencing with Seetion 21005) to the Health and Safety Code; and to add Sections 11587 and 11588 to the Insurance Code, relating to health, and making an appropriation therefor.

## REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bills were referred to commuttee:

## Senate <br> Bill No. <br> Committee <br>  <br>  <br> RECESS

At 11.57 a.m, Speaker MeCarthy declared the Assembly recessed.
REASSEMBLED
At 12 m , the Assembly reconvened
Hon Leo T. McCarthy, Speaker of the Assembly, presiding.
REQUEST FOR UNANIMOUS CONSENT
Mr Goggin was granted unammous consent that the Desk be held open today to recenve the report of the C'ommittee on Ways and Means relative to Assembly Bull No t, that the bill be taken up, whout reference to file, for purpose of second reating and adoption of conmittee amendments, and that the bill be returned to the third reading file for the next legislative day.

RECESS
At 1201 pm , Speaker MeCarthy declired the Assembly recessed REASSEMBLED
At 323 p m., the Assembly reconvened.
Hon. Leo T McCarthy, Speaker of the Assembly, presiding.

# REPORTS OF STANDING COMMITTEES <br> Committee on Ways and Means 

Assemblr Chamber, Angust 15, 1975
Mu Snenker - Your Committee on Wass and Means reports.
Assembl, Bill No 4
Whth amendmenta with the recommentiation : Amend, and do pass. as amended FORAN, Chairman

## SECOND READING OF ASSEMBLY BILL NO. 4BY UNANIMOUS CONSENT

Pursuant to unanmous consent granted earlier this day, the following bill was taken up, without reference to file, for purpose of second reading, and adoption of committee amendments

Assembly Bill No. 4 - An act to add Division 18 (commencing with Section 22000) to the Health and Safety Code, relating to health Bill read second time

Consideration of Committee Amondment:
The following amendments, proposed by the Commstee on Ways and Means, were read, and adopted:

## Amendment 1

On page 11, between lines 26 und 27, insert

## "Chapter 6. Fees

22070. The Director of Health shall establish a schedule of fees to be collected by the office from professional and institutional providers who utulize the services of the office The fees shall be established in an amount to fully remburse the department, meluding. but not limited to the office, for its costs mearrying out the provisions of this division "

Bill ordered reprinted, and to be returned to the third reading file.

## ADJOURNMENT

At 324 pm , Spenker McCarthy declared the Assembly adjourned until 9 am , Monday, August 18, 1975.

LEO T. MeCARTHY, Speuker
ANABEL FLEURY, Mmute Clerk
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## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAlLY JOURNAL

# THIPTY-EIGHTH LEGISLATIVE DAY <br> NINETY-SECOND CALENDAR DAY 

## IN ASSEMBLY

Assembly Chamber, Sacramento
Monday, August 18, 1975
The Assembly met at 12:11 p.m.
Hon Louls J Papan, Speaker pro Tempore of the Assembly, presiding

Chief Clerk James D Driscoll at the Desk.
Assistant Clerk Ray Monday reading

## ROLL CALL

The roll was called, and the following answered to their names-76:

| Alatole | Cullen | Knox | Fermo |
| :---: | :---: | :---: | :---: |
| Antonovich | Davis | Lancaster | Prolo |
| Bane | Declileh | Lanterman | Ralph |
| Bannat | Divon | Lewis | Rosenthal |
| Berman | Dufij | Lockyer | Sipgler |
| Belerls | Figeland | Machonald | Sieroty |
| Roatwright | Fenton | Madds | Sult |
| Briggs | Foran | MeAlocter | Thrimas. Vineent |
| Brown | Garnmendr | Mielemman | Thomas, Willinm |
| Burke | Gogein | Mclintie | Thumban |
| Calso | dicume | Scate | Torres |
| Camplell | Ginalco | Milter | 'lucker |
| Carpenter | Hart | Stobley | Vancomarlos |
| Clnappe | Hraden | SIontosa | Vicencia |
| Chel | Hughes | Moul | Warsen |
| Chimbole | Ingalis | Muphe | Wilson |
| Chine | Knpuloff | Nestamle | Wornum |
| Colher | Krene | Nimmu | Z'berg |
| Crasen | Kipysor | Prum | Mr Speaker |

Quorum present.

## PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

Father, In these days of new ideas, some uplifting, some confusing, in days of man's awaikening to his own immense potential and his creative vocation, let us not forget that You are the source of life, and of existence.

Let us not forget that all that we discover in man and in his world -is a new facet of Your love, a new reason why we must work in love and in haste towards the creation of a world of brothers and sisters living in peace and plenty -AMEN.

PLEDGE of allegiance to the flag
Upon request of Speaker pro Tempore Papan, Mr Wilson then led the Assembly in the pledge of allegrance to the Flag.

## MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previons legislative day was dispensed with on motion of Mr Siegler, seconded by Mr Perino.

## LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness

Mr Arnett, on request of Speaker pro Tempore Papan.
Mr Chacon, on request of Speaker pro Tempore Papan.
The following Members were granted leaves of absence for the day, on personal business, and desired to waive their per diem:

Mr Badham, on request of Speaker pro Tempore Papan.
Mr Robinson, on request of Speaker pro Tempore Papan.

NOTE - For letter explaining the absence of Mi Badham on this day, see Assemhy Laily Jountal for the legulat session fot this day

## COMMUNICATIONS

Assembly Chamber, August 18, 1975
Mr Speaker • Purkuant to your inatiuctions, the Chef Clesk has pammed.
Assembly Bill No 5
And leports the same correctly engrossed.
JAMES D DRISCOLIt, Chief Clerk
Above bill ordered returned to second reading file.
Assembly Chamber, August 18, 1975
Mr Speaker - Pursmant to $\mathbf{z o m}$ instuctionc, the Chef Cleth has panmined:
Assemills Bull No 4
And rejoits the same correctly engrossed.
JAMES D DRISCOLI, Chef Clerk
Above bill ordered to third reading.

## CONSIDERATION OF DAILY FILE

 ASSEMBLY BILLS RETURNED TO SECOND READING FILE PURSUANT TO THE RULESPursuant to the Assembly Rules, the following Assembly bill was this day on the second reading file:

Assembly Bill No. 5, ordered to third reading.

## ADJOURNMENT

At $12 \cdot 12 \mathrm{pm}$, Speaker pro Tempore Papan declared the Assembly adjourned until 9 a m, Tuesday, August 19, 1975.

LEO T. McCARTHY, Speaker
ANABEL FLEURY, Minute Clerk
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$\therefore$

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAILY JOURNAL

## THIRTY-NINTH LEGISLATIVE DAY NINETY-THIRD CALENDAR DAY

## IN ASSEMBLY

Assembly Chamber, Sacramento
Tuesday, August 19, 1975
The Assembly met at 1058 a m.
Hon Bill Lockyer, Member of the Assembly, 14th District, presiding Chef Clerk Tames D Driscoll at the Desk.
Assistant Clerk Ray Monday reading.

## ROLL CALL

The roll was called, and the following answered to their names- 78 .

| Alatorre | E'rasen | Know | Perino |
| :---: | :---: | :---: | :---: |
| Antononich | Cullent | Lancaster | Priolo |
| Bhalham | Davis | Lanteimm | Raly |
| Bane | Ledrdeh | Lensis | Rowtuthal |
| Banmai | lhan | Lackipr | Miegler |
| Herman | Duffy | Maclsmald | Stipioty |
| Bereril | Egeland | Mndd | Sutt |
| Boatwright | Fenton | MrAlinter | Thumas, Yincent |
| Rrigs | Fornn | Mel mman | Thomar, William |
| Brown | Gintimendi | Mevintie | Thum man |
| Burke | (iokgim | Mrade | Tules |
| Crivo | Cinpene | Miller | Tucker |
| Campleil | Gualeo | Mablev | Vя¢еоисрllos |
| Capmenter | Hart | Montosa | Vıerneir |
| Chneom | Hasden | Mor | Wiancin |
| Charpie | 1Lughion | Murph | Wilson |
| Chel | lug.ils | Nestande | Wornam |
| Chimbole | Kajuloff | Nimimo | Z'larg |
| Clue | Kprne | Papan | Mr Speaker |
| Collzer | Ketwr |  |  |

Quorum present.

## REGULAR BUSINESS DISPENSED WITH

By unammous consent, the regular order of busmess of the Assembly was dispensed with for this legislative day.

## LEAVES OF abSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr. Arnett, on request of Acting Speaker Lockyer.
The following Member was granted leave of absence for the day, on personal busmess, and desired to waive his per diem:

Mr. Robunson, on request of Acting Speaker Lockyer.

## ADJOURNMENT

At 10.59 a m, Acting Speaker Lockyer declared the Assembly adjourned until 9 a m, Wednesday, August 20, 1975.

LEO T. McCARTHY, Speaker

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBIY DAIIY JOURNAL

# FORTIETH LEGIBLATIVE DAY 

## NINETY-FOURTH CALENDAR DAY

## IN ASSEMBLY

## Assembly Chamber, Sacramento

Wednesday, August 20, 1975
The Assembly met at 10.52 a m
Hon Louis J Papan, Speaker pro Tempore of the Assembly, presiding
Chief Clerk James D. Driscoll at the Desk.
Assistant Clerk Ray Monday reading.

## ROLL CALL

The roll was called, and the following answered to their names-77:

| Antonovich | Davis | Lancaster | Priolo |
| :---: | :---: | :---: | :---: |
| Barlham | Deideh | Innteıman | Raiph |
| Bane | Disour | Lewis | Robinson |
| Bannal | Duffy | Lack er | Rosenthal |
| Berman | Fgeland | Mncbounld | Stegler |
| Beverly | Fenton | Madrls | Sieroty |
| Boaturight | Foran | Mcalister | Sustt |
| Bratgs | Garrmendr | MeLennin | Thomas, Yincent |
| Buake | Goggen | McVittue | Thomat, William |
| Calse | Greene | Meade | Thurman |
| Camphell | Gualco | Minller | Torres |
| Carpenter | Hart | Mobley | Tucker |
| Chacon | Has den | Montosa | Vasconcellos |
| Chappie | Hughes | Mor, | Vicencia |
| Chel | Ingalls | Muphy | Wrrten |
| Chimbole | Kapiloff | Nestande | Wilson |
| Cline | Keene | Nimmo | Wornum |
| Colher | Kejsor | Papan | Z'berg |
| Craven Cullen | Knox | Pejillo | Mr. Speaker |

Quorum present.
REGULAR BUSINESS DISPENSED WITH
By unanimous cousent, the regular order of business of the Assembly was dispensed with for this legislative day.

## LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness:

Mr. Alatorre, on request of Speaker pro Tempore Papan.
Mr. Arnett, on request of Speaker pro Tempore Papan
The following Member was excused for the day, and his per diern was waived:

Mr. Brown.

## ADJOURNMENT

At 2.46 p.m, Speaker pro Tempore Papan declared the Assembly adjourned until 1 p m , Thursday, August 21, 1975.

LEO T. McCARTHY, Speaker
ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAILY JOURNAL

FORTY-FIRST LEGISLATIVE DAY
NINETY-FIFTH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento Thursday, August 21, 1975
The Assembly met at 615 pm
Hon Leo T MeCarthy, Speaker of the Assembly, presiding. Chef Cleck James D Driscoll at the Desk.
Assistant Clerk Ray Monday redding.

## ROLL CALL.

The roll was called, and the following answered to their names-80;

| Alatorre | Colher | Keysor | Perino |
| :---: | :---: | :---: | :---: |
| Antonosich | Claven | Knox | Pitolo |
| Arnett | Cullen | Lancaster | Ralph |
| Badham | Inavis | Lanterman | Robinson |
| Bnie | Derldrh | Lewis | Rosenthal |
| Bamnat | Diani | Lockser | Siegler |
| Berman | Duff, | MacDonald | Steroty |
| Beteldy | Egeland | Maddy | Suntt |
| Boatwright | Fenton | McAlister | 'Thomas, Vincent |
| Brigks | Foran | Mclemann | Thomas, Whllam |
| Brown | Garamenda | MeVittie | Thurman |
| Buke | Goggin | Mresde | Toires |
| Calvo | Greene | Miller | Tucker |
| Camphell | Gramico | Mobley | Vsaconcellos |
| Crapenter | Hatt | Montoy a | Viecnela |
| Chacon | Hasden | Morı | Warren |
| Chapple | Hughes | Murphy | Wilson |
| Chel | Ingalls | Nestande | Wornum |
| Chimbole | Kapioff | Nımmo | Z'berg |
| Cline | Keens | Papam | Mr. Speaker |

## PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

God, Our Father, You have blessed us with wondrous generosity, especially in this l'nited States

Help us to show our gratitude to You by the manner m wheh we use our resources and share them with others

Help us to show our sppreciution of freedom by the manner in wheh we live and allow others to live.

Help us to show concern for justice by the manner in which we legislate and adjudieate.

Help us always remember to count our blessings -AMEN.
pledge of allegiange to the flag
Upon request of Speaker Mec'arthy, Mr. Antonovech then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENEE WITH READING OF THE JOURNAL
Further reading of the Jourlad of the previous legriglative day was dispensed with on motion of Mr. Calvo, seconded by Mr Murphy.

## ADJOURNMENT

At 6.16 pm , Speaker MrCurthy declared the Assembly adjourned until 1 p m., Friday, August $22,19 \overline{7}^{\circ}$.

LEO T. McCARTHY, Speaker
ANABEL FLEURY, Mnute Clerk

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAILY JOURNAL

# FORTY-SECOND LEGISLATIVE DAY ninety-sixth calendar day 

## IN ASSEMBLY

Assembly Chamber, Sacramento Friday, August 22, 1975

The Assembly met at 131 pm .
Hon. Leo T MeCarthy, Speaker of the Assembly, presiding.
Chief Clerk James D Driseol] at the Desk.
Assistant Clerk Ray Monday reading.
ROLL CALL
The roll was called, and the following answered to their names- $\mathbf{7 6}$ :

| Alatorre | Colher | Keene | Prapn |
| :---: | :---: | :---: | :---: |
| Antonoich | Craven | Kes sor | Perino |
| Arnetl | Cullen | Knox | Priclo |
| Badham | Davis | Lancaster | Bosenthal |
| Bane | Deddeh | Lanterman | Siegler |
| Bannai | Divon | Letwis | Sieroty |
| Berman | Duffy | Lockjer | Suitt |
| Beterly | Egeland | Maddy | Thomas Vineent |
| Bontwright | Feuton | McAlhater | Thomas, Whllam |
| Briges | Foran | Melhaman | Thumman |
| Brown | Gatamends | Mclitie | Torres |
| Burke | Gopgin | Meade | Tucker |
| Calso | Greene | Mitler | Nameancellos |
| Carpenter | Gunlco | Mobley | Vicencia |
| Chacon | Has! | Montosa | Warren |
| Chnppie | Havien | Morı | Wilson |
| Chel | Hughes | Mupphy | Wornim |
| Chimbole | Ingalls | Nestande | Z'bers |
| Cline | Kaphlofl | Nimmo | Mr. Speaker |

Quarum present.

## PRAYER

The following prayer was offered by the Chaplain, Father Leo MeAllister.

Father, We ask Your help in living with change You know so well that we need some stabinty We need a place to stand, a truth that doesn't chauge Sometmes we do lose our bearings, so help us get used to the ided that new thmgs may not be bad thurgs, but the sign of Your Sprit at work Help us to understand that what really doesn't change is Your love for us -AMEN.

## PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Spaker McCarthy, Mr Cullen then led the Assembly in the pledge of allegiance to the Flag

MOTION TO DISPENSE WITH READING OF THE JOURNAL.
Further reading of the Journal of the previous legrislative day was dispensed with on motion of Mr . Goggin, seconded by Mr. Z'berg.

## LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness .

Mr. Campbell, on request of Speaker pro Tempore Papan.
Mr. MacDonald, on request of Speaker pro Tempore Papan.
Mr. Robinson, on request of Speaker pro Tempore Papan.
The following Member was granted leave of absence for the day, on personal business, and desired to waive his per diem:

Mr. Ralph, on request of Speaker pro Tempore Papan.

## Speakor pro Tempore Presiding

At 1:44 pm., Hon Louls.J Pipan, 19th Distriet, presiding.

## CONSIDERATION OF DAILY FILE

THIRD READING OF ASSEMBLY BILLS
Assembly Bill No. 4 (Goggin)-An aet to add Division 18 (commencing with Section 22000) to the Health and Safety ('ode, relating to health.

Bill read third time, and refused passage by the following vote:

| AYES-24 |  |  |  |
| :---: | :---: | :---: | :---: |
| Alatorre | Fenton | Keene | Siegler |
| Berman | Gogrin | Luckser | Sieints |
| Bontwright | Gunico | Ma-linter | Torres |
| Brown | Hart | Mraule | Visconcellos |
| Dixon | Hugheq | More | Nornum |
| Duffy | Kaphlefir | Romenthal | Ziberg |
| NOES-43 |  |  |  |
| Antonorich | Chel | Kiox | Prpan |
| Argett | Chimbole | Lancaster | Permo |
| Rnilham | Chue | Janierman | 1'romo |
| Brauma | Colluer | Lewir | Thamis, Vmernt |
| Beterly | Crmen | Madils | Thathas, Whilamm |
| Bregs | Culleu | Melamman | Thintman |
| Burke | Dedilels | Mc Vitue | 'rucher |
| Calso | Eizeland | Mohles | Viecheta |
| Carpenter | Folan | Mluphy | Water |
| Chacom | Hasiden | Nimatande | Wilsun |
| Chuppre | Ingills | Nıum, |  |

Motion ta Reconsider Assembly Ball No. 4 on next Legislative Day
Mr Goggin moved to reconsuder on the next legriblative day the vote whereby Assembly Bill No. 4 was this day refused pasalge

Assembly Bill No. 4 ordered to the unfinshed busmess file.

Assembly Bill No 5 (Duffy) -An act to amend Sections 1255, 2100, 2101, 2119, 2361, 23615,2362 . 2364, 2372 5, 2436, 2454, and 2458, of, to add Article 11 (eommenerng with Section 800) to Chapter 1 of Division 2 of, Sections 2100.5, 2100 6. 21007,2100 8, 2101 5, 2122 to, Article 23 (commenring wath Section 2123) to Chapter 5 of Division 2 of, and Scetions 2372, 23721 , and 24585 to, and to repeal Article 11 commencing with Section 800) of Chapter 1 of Division 2 of, Article 2.3 (commencing with Section 2123) of Chapter 5 of Division 2 of, and Section 2372 of, the Busmess and Professions Code, to add Section 141325 to the Welfare and Institutions Code, relating to the healing arts.

Bill read third time, and passed by the following vote:

| AYES-71 |  |  |  |
| :---: | :---: | :---: | :---: |
| Alatorre | Cline | Keene | Prpan |
| Antonovech | Colher | Keysor | Terino |
| Arnett | Craven | Knox | Priolo |
| Badham | Cullen | Lancaster | Rosenthal |
| Bane | Deddeh | Lanterman | Siegler |
| Banuai | Dixon | Levis | Steroty |
| Beiman | Duffy | Lochyer | Sunt |
| Beverly | Figeland | Maddy | Thomes, Wullam |
| Boatwright | Fenton | McAlister | Thurman |
| Brimg | Foran | Mclimnan | Torres |
| Brown | Garamendi | McYittre | Vauconcellos |
| Rurke | Gogrill | Meade | Vicencia |
| Calio | Greene | Miller | Wharen |
| Carneater | Hat | Moliley | Wilson |
| Chncon | Has den | Montosa | Wornum |
| Chapue | Huplues | Morı | Z'berg |
| Cbel | Ingnilis | Nestande | Mr Speaker |
| Cbumbole | Kapuloff | Nımmo |  |

NOES-NOME
Bill ordered transmitted to the Senate.
Assembly Bill No. 35 (Thurman)-An get to add Section 141104 to the Welfare and Institutions Code, relating to Medj-Cal.

Bill read third tine, and passed by the following vote:

| AYES-67 |  |  |  |
| :---: | :---: | :---: | :---: |
| Alatorre | Coiher | Knpulofif | Perins |
| Antonouch | Craven | Kepne | Priolo |
| Arnett | Cullen | Kpysbr | Rowpnthal |
| Hane | Deddeh | Knod | Slegler |
| Buanai | Dison | Lnntelman | Sieioty |
| Berman | Duffy | Lewit | Sutt |
| Beverls | Egeland | Loch3er | Thomas, Willunm |
| Boatwright | Fenton | Medister | Thurman |
| Brown | Foran | MrLennan | Torres |
| Bure | Garamendj | MeVitte | Visconcellos |
| Calvo | Gorgin | Meade | $V$ cencia |
| Cripenter | Grepue | Miller | Warien |
| Chacon | Gualco | Montosa | Wilum |
| Chapure | Has: | Morı | Wornum |
| Cuel | Hasiden | Muphy | Z'bers |
| Clinmbole | Hughes | Nimimo | Mr, Speaker |
| Cline | Ingalls | Papran |  |
| NOES-3 |  |  |  |
| Badham | Brlggs | Maddy |  |

Bill ordered transmitted to the Senate.

## RECESS

At 2:09 p.m., Speaker pro Tempore Papan declared the Assembly recessed.

## reassembled

At $2: 32 \mathrm{pm}$, the Assembly reconvened.
Hon. Leo T. McCartly, Speaker of the Assembly, presiding.
vote changes
The following Members were granted unanimous consent to record their votes:

On Assembly Bill No 4 : Messrs. Ingalls and Chel, "Ayr", to "No"; Mr. Garamendi, "Aye" to "Not voting"; Mr Priolo, "No".

On Assembly Bill No. 35: Mr. Carpenter, "Aye".
ADJOURNMENT
At 2:33 p.m., Speaker McCarthy declared the Assembly adjourned until 9 a.m., Monday, August 25, 1975.
LEO T. MeCARTHY, Speaker
'ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAILY JOURNAL <br> FORTY-THIRD LEGISLATIVE DAY <br> NINETY-NINTH CALENDAR DAY <br> IN ABEEMBLY <br> Assembly Chamber, Sacramento <br> Monday, Aurust 25, 1975 <br> The Assembly met at $122 \overline{2} \mathrm{pm}$. <br> Hon Lous J Papan, Speaker pro Tempore of the Assembly, prestimg <br> Chief ('lerk James D Driscoll at the Desk <br> Asnstant Clerk Ray Monday readmg.

## ROLL CALL

The roll was called. and the following answered to their names-80:

| Aiatorre | Collter | Kersor | Perino |
| :---: | :---: | :---: | :---: |
| Antomoreh | (1atell | Knos | Iriolo |
| Arnett | cullem | Lenncaster | Ralph |
| ladham | 1)asis | Lanteiman | Rolimron |
| Jhint | 1)arliduth | T.ewis | Rosenthal |
| Lamma | Hisan | Lachers | Singler |
| Lierman | I Mif! | Mnelomald | Nolloty |
| Ltarla | ligelnme | Mards | Stirt |
| Bontw rught | Ieuton | Mcatister | Thomas, Vincent |
| Hurges | Forsa | Melamant | 'Thumas, Willmm |
| Ihown | (Garamendı | Mc) | Thumman |
| 1tuhe | (10\% ${ }^{\text {atim }}$ | Mende | Torres |
| Culus | Creme | Mhller | Tucker |
| Crmphell | Giuntro | Mubler | Vuseonertlos |
| C'urpenter | Hint | Mentesa | Vicencia |
| Chaton | Husden | Mor | Warem |
| Chature | Hughes | Murphs | Wilun |
| ( 'lat | Incalda | Nivitunde | Wormmm |
| (humbole | Kupiloft | Nimmo | Z:herg |
| clupe | Kerne | 1'ирии | Str. Nueaber |
| Quorum |  | 1 |  |

PRAYER
The following prayer was offered by the Chaplain, Father Leo McAllister:

We Pray 0 Lord, For leaders of governments and those whose words and actions will influence the course of our history, that they may mot tolerate mjustice, seek refuge in volence or make rash and ili-considered decisions about the future of other people. We pray for all who live in the shadow of world events, for those who are never noticed or lauded, but who do their duty and remam obscure We pray for all who are automatically just, peaceful and mdustrious, whose contribution is mdispensable We pray that none will be ignored or forgotten for we do not walk or work alone, neither without You, Lord, nor without each other -AMEN.

## PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker pro Tempore Papan, Mr Calvo then led the Assembly in the pledge of allegiance to the Flag

## MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journdl of the previous legislative day was dispensed with on motion of Mr Calvo. seconded by Mr McLeman.

## MESSAGES FROM THE SENATE

Senate ('himber. Angust 22, 107
Mr Spager - I am directed to mfonm , our honotable lush, that the Senate on ths day passell:

Senate Bill No. 4
DARRYY, $R$ WHITE, Secietal, of the Sennte
Bi. John W Elosame, Chef Awstant Secretary
FIRST READING AND REFERENCE OF SENATE BILLS
The following bill was read the first time, and ordered held at the Desk.

Senate Bill No. 4-An act to add and repeal Section 11587 to the Insurance Code, relating to medical malpractice insurance, and declaring the urgency thereof, to take effect immediately.

## REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bill was referred to committee:

Senate
Bill No.

## Committee

4 Finance, Insurance, and Commerce

## MOTION TO RECONSIDER ASSEMBLY BILL NO. 4 CONTINUED

Mr. Gogrin was granted undmmous consent that his motion to reconsider the vate on Assembly Bill No. 4 be contmued until the next legislatave day.

RECESS
At 12.26 p.m, Speaker pro Tempore Papan declired the Assembly recessed.

## REASSEMbled

At 906 pm , the Assembly reeomened
Hon Lous J Pupan, Spedker pro Tempore of the Assembly, presiding.

## AUTHOR'S AMENDMENTS <br> Committee on Ways and Meane

A asemhl: Chamber, Allgust 25. 1975
Mn Spanher The Chan man of vome Commuttef on Wias and Meana reports.
A (apmblh Rill No 2
With authon's ammimentu bith the recommendation Amend and re-refer to the Commuttre on Wins and Menns.

Assembly Bill No. 2-An act to amend Sections 441 18, and 12655 of, to add Part is (commenemp with Sertion 1199) to Dirision 1 of. to repeal Secton $4+211$ of, and to reparal Part 15 (commencing with Sec-
 lealth merwern and ficilithes,

Bill read second time.

## Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted.

## Amendement 1

In lune 3 of the title of the printed bill, an meneded in Assmbly June 26. 197... strike trut '"and 126in. 5 ', and msert ", 1250, 1255, 1265, 1267, and $1268^{\circ}$

## Amendment 2

In lme 4 of the title, after "ddd", msert "Section 12657 to, to add".

## Amendment 3

In line 6 of the title, strike ont "Stection $4+211$ ", and insert "Sections 442 11 and 1205.5"

## Amendment 4

In hue 7 of the title, after the second romma. insert "and to amend Section $1410 \overline{\mathrm{~s}} \mathrm{j}$ of the Welfare and Intitutions Code,".

## Amendment 5

On page 5, between lines 31 and 32 , insert
"The commisuon hlall furuish to the state department, upon request, information eoneemme health fachitios when report capital expendtures an defined m subdinisma (e) of Section 110951 ."

## Amendment 6

On pare 6, strike out lines 6 to 40 , molusine. on page 7 . strike out lime 1 and $\frac{2}{}$, and an har 3 , strike out "SEC $5 "$, and mert
"SEC. 4".

## Amendment 7

On page 7, line 16, after "and", insert "Resources".

## Amendment 8

On page 7, strike out lines 20 to 40 , inclusive; and on page 8 , strike out lines 1 to 8 , inclusive, and insert
"(1) It is of vital importance that the State of Californis have a bospital and related health facilities system which makes avallable to the public the highest capabulities of health facility care at the lowest reasonable cost Current rapidly accelerating rates charged for health faclity services are a matter of serious public concern which require state regulation and surveillance of health facilities development and construction as herein provided.
(2) Health fachities are affected with the public interest, involved in the distribution of essential services, and obliged to furmsh such services to the general public at minimum costs consistent with good quality. Further, such facilities function in a system where usual business competition often does not apply.
(3) State government has an obligation to assure access and availability of high quality, effectively provided, and economical health fachity services to all the people of California The state has a particular interest in the proportion of such services which is paid from public funds And, because of the impact of these public funds on the health care delivery system, the state recognzes its partucular obligation to carefilly plan and regulate the varous uscs of these funds, particularly the manner in which they affect the avalability and cost of health facility services to all the people of California"

## Amendmont 9

On page 8 , strike out line 15 , and insert
"(5) Increases in the cost of health care, particularly of hospital stays, have been uncontrolled and inflationary, and ueedless dupheation and uuderutilization of existing facihties now exists. In addition, there are not adequate incentives for the use of appropriate alteruative levels of health care, and for the substitution of ambulatory and miermediate care for inpatient hospital care.
(6) Response to these".

Amendment 10
On page 8, line 17 , strike out "have", and insert "has".
Amendment 11
On page 8, line 18, after "present", insert "conditions'". Amendment 12
On page 8, strike out lines 26 to 37 , melusive; and in line 38 , strike out " (9) As", and insert
"(7) Fmally, as".

## Amendment 13

On page 9, line 14, strike out "Public Law 93-641,", and insert "the National Health Planning and Resources Development Act of 1974 (P L. 93-641) ; and '".

## Amendment 14

On page 9 , strike out lines $1 \bar{J}$ and 16 .

## Amendment 15

On page 9 , between lines 21 and 22 , unsert
"(c) It is the intent of the Legislature that, if any of the provisions of this part are found to be in conflict with federal rules and regulations pertaining to the admmastration of Publie Law 93-641, such provisions shall be of no force or effect to the extent of such conflict."

## Amendment 18

On page 9 , strike out lines 26 to 39 , inclusive; and in line 40 , strike out " (c)'", and insert
"(a)".

## Amendment 17

On page 10, line 37, strike out " ( d ) ', and insert "(b)".

## Amendment 18

On page 11, line 2, strike out " (e)", and insert "(c)".

## Amendment 19

On page 11, strike out lines, 4 to 10 , melusive; and in line 11, strike out " $(g)$ ", and insert "Section 1250) of Division 2.
(d) '".

## Amendment 20

On page 11, strike out lines 16 to 40 , melusive; on page 12, strike out lines 1 to 15 , inelusive, and in line 16 , strike out " $(k)$ ", and insert
"(e)"."

## Amendment 21

On page 12, strike out lines 22 to $\underline{0}$, inelusive, and insert
"(f) "Cost." for purposes of ('hapter 3 (commencing with Section 119949 ) of this purt, shall meme the amount found by the department to be necesaly for the completion of projects requiring a certificate of need under Section $1199.51 . "$

## Amendment 22

On page 12, strike out lines 26 to 40 , inclusive, and insert
"(g) "State agency" means the State Department of Health."

## Amendment 23

On page 13. line 1, strike out " ( $p$ )', and insert " $(\mathrm{h})$ ".

## Amendmant 24

On page 13 , line 4 , strike out " (q)", and insert "(i)"

## Amendment 25

On page 13, strike out lines 6 and 7 ; and in line 8, strike out " (s)", and mert
"(J)".

## Amendment 28

On page 13. between lines 10 and 11 , msert
" ( $k$ ) "Consumer" means any person who is not a provider of health care.
(I) "Boarl" means the Certuficate of Need Appeals Board."

## Amendment 27

On page 13, line 15, after "and", insert "Resources".
Amendment 28
On page 13, line 22, after "'and", insert "Resources".

## Amendment 29

On page 14, strike out lines 5 to 9 , inclusive, and insert
"(d) To admmister the state certıficate of need program."

## Amendment 30

On page 14, line 16, after the period, insert "The state agency shall establish procedures to provide opportunity for public comment on all applications on certificates of need"

## Amendment 31

On page 14, between lines 26 and 27, insert
"(h) With the guidance of the Statewide Health Coordinating Councll, to establish procedures and a format for the uniform development of the area health systems plans for incorporation in the preliminary state health plan.
(i) To collect from health facilities on a periodic basis such data and information as found necessary to carry out the purposes of this part as required under the provisions of Section 1271

The state agency shall promulgate reasonable rules and regulations to carry out the purposes of this part."

## Amendment 32

On page 14 , line 37 , strike out " 50 ', and insert " 46 ".
Amendment 38
On page 15, strike out lines 20 to 22 , iuclusive, and insert "Henlth, or their designees."

## Amendment 34

On page 15, line 27 , strike out "paragraph", and insert "subdivision'".

## Amendment 34.5

On page 15, line 34, after 'the'", insert "voting'.
Amendment 35
On page 16, line 12, after "be'", insert "to".
Amendment 36
On page 16 , line 13, strike out "To annually", and insert "Annually".

## Amandment 37

On page 16, strike out lines 24 and $2 \overline{5}$, and in line 26 , strike out "(d)", and insert
"(c)".

## Amendment 38

On page 16, line 26, after "revise'", msert ", approve, and adopt,".

## Amendment 39

On page 16 , lines 27 and 28 , struke out "but at least annually,".

Amendment 40
On page 16, line 29, strike out " ( $e$ )', and insert "(d)".

## Amendment 41

On page 16, lime 31, strike out " (f)', and insert "(e)".

## Amendment 42

On page 16, between lines 3.5 and 36 , insert
"(f) Review amually the budget of each health systems agency and report comments to the secretary"

## Amendment 43

On page 17. line 1, strike ont "Health Care Commission", and insert "Certifiente of Need Appeals Board".

## Amendment 44

On page 17, line 7, thike out "Health Care Commission", and insert "('ert fieste of Need Appedls Board".

Amendment 45
On page 17, lme 8, strike out 'commssion', and insert 'board'".

## Amendment 48

On page 17, line 9, after 'members", insert ", five of whom'.

## Amendment 47

On mage 17, line 10, strike out ". The", and insert "; and four of whom are provides of herlth eare. one of whom thatl be a physulan in active practure, obe of whom thatl be an admmatrator of a nonprofit general actute care homptal. one of whom shall be an tidministrator of an incentor owned homposal. and one of whom whall be an administrutor of in walled nurving facility All members of the board shatl atmo have kow ledge in the field of health edre services.

The 'omsumer'.

## Amendment 48

On page 17, lme 16. atrike out "commisumn', and menert "board".

## Amendment 49

On paye 17, line 17, strike out "by the Governor".
Amendment 50
On page 17. strike out line 19 to 38 , inclusive, and msert "of their surerwors All proveler members shall be apponted bs the Goverior. Of the five consumer member, three halt be apponted by the Governor, ome hall be dpponted by the Sentite Committer on Ralrs, and one shat be appointed by the Speaker of the Swembls of the combmer membens first apponted by the Gonemor, one shall hold office for four
 two sedm Vadelum wall be filled bs the gpomenting authority for the
 of the boad for acrlat of any laty regured by law, or for meompeteres on dankerable conduct."

## Amendment 51

On page 17, line 40 , strike out "commission', and insert "board".

## Amendment 52

On page 18, the 2 , strike out "commission", and insert "board".
Amendment 53
On page 18 , lume 4 , strike out "chatrmant, a vice chairman", and insert "chairperson, a vice charperson".

## Amendment 54

On page 18 , line 6 , strike out "commission", and insert "board".

## Amendment 55

On page 18, line 7 , strike out "chainman", and insert "charperson'".

## Amendment 56

On page 18 , line 8 , strike out "commission", and insert "board".
Amendment 57
On page 18, between lines 13 and 14 , msert
"1199.15.5. The board shall have the power to hire an executre secretary and such other staff as necessary to carry out its functions"

## Amendment 58

On page 18 , line 14 , strike out "commission", and insert "board".

## Amendment 59

On page 18 , line 18 , after the period, msert "The decision of the state agency shall be final unless appealed to the board."

## Amendment 60

On page 18, line 19, strike out "As soon as", and insert "A protest or request for a hearing shall be filed within 30 drys following the date a decision is issued by the state ageney with respect to a certificate of need. Within 30 days of recerving''.

## Amendment 61

On page 18, line 20, strike out "is received, the commission", and insert ", the board".

## Amendment 62

On page 18, strike out lines 21 to 23 , melusive, and insert "shall set a hearing date. The hearing sledll be held within 30 '.

## Amendment 63

On page 18, line 25, strike out "region', and msert "health service area".

## Amendment 64

On page 18, line 26 , strike out "commisson", and insert "board".

## Amendment 65

On page 18 , line 29 , struke out "recommendation", and insert "decision".

## Amendment 66

On page 18, line 30, strike out "commission", and insert "board".

## Amendment 67

On page 18 , line 34 , strike out "geographiedl", and msert "health service".

Amendment 68
On page 18, line 35, strike out "commussion", and insert "board".
Amendment 69
On page 18 , strike out lines 36 to 38 , melusive, and insert "applicant, the state department, the ared agency, and any person requesting such notice."

## Amendment 70

On page 18 , line 39 , after the first "the", insert "appeals".

## Amendment 71

On page 19, line 4 , strike out "mry be held by the comminsion," and insert "shall be held by the board, with the assistance of a hearing officer".

Amendment 72
On page 19 , strike out line 5 , and insert " Every'.
Amendment 73
On page 19, line 6, strike out "geographical", and insert "health service".

## Amendment 74

On page 19 , lines 7 and 8 , strike out "and shall be presided over by a hearmg officer assigned by the commission'".

## Amendment 75

On page 19, strike out line 10 , and msert "advise the board on matters of law. The board shatl'".

Amendment 76
On page 21, line 5, strike out "commsson", and insert "board".
Amendment 77
On page 21, lme 8, strike out "commisvion', and msert 'bbard'.
Amendment 78
On page 21, lme 15, strike out "commistion', and msert '"board".
Amendment 79
On page 21 , line 16 , strike out "commastion", and insrrt "board".
Amendment 80
On page 29 , line 10 , strike out "comminson 's", and insert "bodd's".
Amendment 81
On page 29, line 19, strike out "commusson'", and innert "boart".

## Amendment 82

On page 29 , line 25 , ntrike out "conmussion", and insert "borrd'".
Amendment 83
On page 92 , line 32, strike out "tomminsion'", and insert "bodrd'.

Amendment 84
On page 22, line 33, strike out "commission", and insert "board".
Amendment 85
On page 22, strike out line 34 , and in lme 35 , strike out "those", and insert "npplication. Those".

Amendment 85
On page 23 , line 5 , strike out "'commssion', and insert "board".
Amendment 87
On page 23, line 10, strike out "commission", and insert "board".
Amendment 88
On page 23, line 12, strike out "commssion", and insert "bourd".
Amendment 89
On page 23 , line 16 , strike out "commission", and insert "board".
Amendment 90
On page 23, line 20, strike out "commussion", and insert "board".
Amendment 91
On page 23, line 24, strike out "commussion", and insert "board".
Amendment 92
On page 23, line 25, strike out "commussion', and insert "board'.
Amendment 93
On page 23, line 29 , strike out 'commssion', and insert "board".
Amendment 94
On page 23, lme 32, strike out "commission', and insert "board".
Amendment 95
On page 23, line 35, strike out "conmmssiou", and insert "board".
Amendment 96
On page 23, line 36, strike out "commussioner", and insert 'member".

Amendment 97
On page 23, line 38, stmke out "commission", and insert "board".
Amendment 98
On page 23, strike out line 40 , and on page -2 , strike out lines 1 to 3, inclusive, and insert "presented "

## Amendment 99

On page 24, line 4, strike out "commossion', and insent "bonrd".
Amendment 100
On page 24, strike out lines 11 to 13 , melusive, and insert
"(c) The state ageney shall issule a centificate of need, effective 30 days after the date of a tanorable decmon moless othet wise stals ed by a court pusuant to Section'.

## Amendment 101

On page 24 , strike out lines 15 to 40 , inclusive; and on page 25 , strike out lines 1 to 15 , melusive

## Amendment 102

On page 25, line 17, strike out "commıssion", and unsert "board".
Amendment 103
On page 25 , line 26 , strike ont "commission", and insert "board"
Amendment 104
On page 25, line 28, strike out "commission", and insert "board".
Amendment 105
On page 25, line 33, strike out "commission", and msert "board".
Amendment 106
On page 25 , line 36 , strike out "commission', and insert "board"
Amendment 107
On page 26, line 3, strike out 'commission', and insert 'board".

## Amendment 108

On page 26 , strike out line 16 , and insert
" 110933 Fmal decisions of the state agency or the board on applications".

Amendment 109
On page 26, line 27, strike out " 12 ", and msert " 24 ".

## Amendment 110

On page 26, line 30, strike out " 12 -month", and msert " 24 -month"
Amendment 111
On page 26 , like 32, strike out "commission', and insert "board'.
Amendment 112
On page 26, strike out limes 37 to 40 , melusive, and on page 27, strike out limes 1 and 2

## Amendment 113

On page 27, line 4 , strike out "the repeal of Part 15 ', strike out lime 3 , and msert "January 1, 1976, shatl be'.

Amendment 114
On page 27 , line 10 , strike out "commission', and moert "board"
Amendment 115
On page 27, strike out lines 12 and 13 , and insert "this arturle, tho decasion of the state ngency whall preval and shall be decmed the find decmion.'

Amendment 116
On page 27, strike out lines 18 to 32 , melusive, and insert

$$
\text { "Artule } 6 \text { Fiurnemg'". }
$$

Amendment 117
On page 27, line 33, after "charged", insert ", for the purposes of providing funds for the operation of the board,".

Amendment 118
On page 27, line 34 , strike out " 005 ", and insert " 0.01 '.
Amendment 119
On page 27, lime 40, strike out " 1976 ", and insert " 1977 ".
Amendment 120
On page 28 , line 1 , strike out " 005 ", and insert " 002 ".

## Amendment 121

On page 28 , line 5 , strike out the first "to", and insert "which, together with anticipated filing fees pursuant to Section 119952 , will'".

Amendment 122
On page 28, line 9, strike out "California Health Facilitics", and insert "Certificate of Need Appeals Board".

Amendment 123
On page 28, line 15, strake out "Cahfornia Health Facilities", and insert "Certificate of Need Apperls Board".

Amendment 124
On page 28 , line 16 , after "agency', msert "and the board".
Amendment 125
On page 28 , line 18 , strike out "part'", and insert "chapter'".
Amendment 126
On prge 29, between lines 7 and 8 , msert
"(e) Health facilities operated by the state slall be expmpted from this artucle"

Amendment 127
On page 31 , line 18 , after "plan'", misert " is drected by the procedures and format specified by the state ageney'".

Amendment 128
On page 34, line 3 , after " Coumell', unvert "und state agenty".

## Amendment 129

On page $3 \overline{5}$, line 22 , dfter "fecderal", miscret "rund state".
Amendment 130
On paue 37 , line 18 , strike out "reorganized", and msert "recognized' ${ }^{\prime}$.

## Amendment 131

On page 38, line 12, after "reommendations", insert "based upon its aren health seruces plan and ared mplementation phan'.

## Amendment 132

On page 38 , strake out lums 18 to 20 , unclusies. and insert "recommendations based upon its ared health servues plan and area molementation plat on appheations for erefifiedte of nexd submitted be an-
 to the state agener."

## Amendment 133

On page 38 , line 30 , after "person', insert ", polıtical subdivision, state, or goverumental agency, except state hospitals for the developmentally dasabled and the mentally disabled operated by the State Department of Health,'".

## Amendment 134

On page 38 , line 33 , strike out the period, and insert "with the following exceptions:
(a) Any project for which the applicant has committed or incurred a financial obligation prior to the effective date of this chapter which cannot be terminated without substantial econome loss and in which the applicant can demonstrate to the satisfaction of the department that he is diligently pursung to completion shall be exempted from the provisions of this chapter of the project is completed on or before March 1, 1976. The department may require documentary evidence which shall conclusively establish any alleged finunctal commitment or other loss which may be incurred if such project is not completed. Appropriate criteria for substantial economic loss shall be established by the department
(b) Any project may proceed without a certıficate of need from the state agency if 12 months have expired since a certificate of need was denied for the project However, such project shall not be expmpt from the provisions of Section 141055 of the Welfare and Institutions Code."

## Amendmenta 135, 136, and 137

On page 38, he 38, after "and', insert ", after opportunity has been provided for public comment,".

## Amendment ${ }^{138}$

On page 39, strike out lines 8 to 12. melusive, and insert "faclity, the conversion of existing beds in one classification to a different bed classification, or an increase in bed capacity in any bed classification For the purposes of this section, "bed classification's shall be defined pursuant to subdivision (c) of Section 1265."

Amendmont 139
On page 39 , line 13 , strike out " $a$ ", strike out lines 14 and 15 , and insert "uny special service set forth in subdivisions (a) to (h), melusive, of 'Section 1255."

Amendment 140
On page 39, strike out lmes 16 to 40 , inclusive; and on page 40 , strike out lines 1 to 3.5 , melusive.

## Amendment 141

On page 41, strike out lines 1 to 4 , inclusive, and insert "need shall submit such".

## Amandment 142

On page 42, line 31, strkke out "and comments", and insert ", comments, and recommendations".

Amendment 143
On page 42, line 32, strike out "The area agency", and strike out lines 33 and 34 .

## Amendment 144

On page 42, line 36, after the second comma, insert "rpprove with conditions mutually agreed upon by the department and the applicant,".

## Amendment 145

On page 42, line 38, after the period, misert "If any applicant fails to fulfill the conditions under which approyal is granted. such falure shall constitute grounds for revochtion of sueh approval."

## Amendment 146

On page 42 , line 39 , strike out "recommendation", and insert "decision'",

## Amendment 147

On page 42 , line 40 , after the first "the', insert "recommendation of'.

## Amendment 148

On page 43, line 3, strike out "recommendations", and insert "decision'.

Amendment 149
On page 43 , line 14 , strike out "issue", and insert "render a deciston".

## Amendment 150

On page 43 , line 34 , strike out "recommend', and insert "establish, with the advice of the state rgency,'.

## Amendment 151

On page 43, line 35 , after "methodology'", and msert ", and shall promulgate overall policies".

## Amendment 152

On page 44, line 32, after the period, insert "For the purposes of this part,".

Amendment 153
On page 44, line 35, strike out the period and insert a comma
Amendment 154
On page 44 , line 38 , strike out the period and insert a comma
Amendment 155
On page 45, line 2, strike out the period, and insert ", and".
Amendment 156
On page 45 , lime 20 , strike out ", ouncil", and msert " state agencr".
Amendment 157
On page 45 , line 26 , after "councol", insert ", with the assistance of the stite agency,'".

Amendment 158
On page 45 , between lines 32 and 33 , mbert
"119959 Annally the state dqeacy whill prepare, review, and wevise a prelmmary state health plan whell wall be made up of the health syotem plans of the herlth sutems agenelen withm the state The primmary state health plan shall be submitted to the council
for approval as the state health plan The state agency shall provide procedures and format for the development of health systems plans and the state health plan after consideration of the recommendations of the conncil.

119960 The Statewide Health Coordinating Council shall annually approve and adopt a state health plan upon receapt and approval of a prelminary state bealth plan submitted by the state agency The comcil may require a health systemis agency to revise its health systems plan to achieve approprite coordmation or to deal more effectively with statewide health needs After providing an opportunity for interested persons to submit their views, and upon approving health systems plans as revised, the council shall adopt such a state health plan."

Amendment 159
On page 45, line 33, strike out " 119959 ", and insert "1199.61".

## Amendment 160

On page 46, between lines 4 and 5 , insert
"119962 Upon the effective date of this part, with respect to the health services area involved, in the absence of a designated health systems agency, the state ageney shall (a) undertake all functons of a health systems agency pursuant to Chapter 3 (commeneing with Section 1199 49), (b) assume the decrsoumaking authority on all applications pending approval before the voluntary ared health planning agencies in the area, pursiant to Section 4377 of the Health and Safety Code prior to its repeal, and (c) request any voluntary area health planning agency in existence to review and make reconmendations on all applications submitted in the agency's designated area pursuant to Section 119951.

119963 The Advisory Health Conncil shall continue in existence for the purpose of hearing appeals pending before the council on the decision or lack of decision of a voluntary area health planning agency, or the consumer members of a voluntary area health planning agency acting as an appeals body, unth all members of the Certificate of Need Apperks Board have been appointed

119964 The Advisory Health Conncil shall contonue in existence and shall exereise the powers and duties of the Statewnde Health Coordinating Council until all members of the Statewide Health Coordmating Councll have been apponted and the chatrperson of the councll selected

## Chapter 5. Health Resotrcees Development

## Article 1. Definitions and General Pravisions

## 119965 As used in this chapter.

(a) "Federal act" means Public Law 93-641.
(b) "Federal share" means the proportion of the cost of a medical fachity's project which the state agency determmes the federal government wall provide under allotment parments or a han or lorn guarantee in accordance with Section $1633(2)(A)(B)(C)$ of the federal act.
(c) "Hospital" means a general, tuberculosis, and other types of hospitals and related facilities such as laboratones, outpatient departments, nurses' home facilities, exteuded eare farlities, facilities related to program for home health services, self-care unts and dental seryce facibties, operated in connection with hospitals, and also includes education or trammg factities for health professional personnel operated as an integral part of a hospital, but does not melude any hospital furnishing primarnly domiciliary care.
(d) "Public health center' means a publicly owned furility for the provision of public health services, meluding related publicly owned facilities such as laboratories, clinies, and admumstretive offices operated in connection with such a fuelity
(e) "Nonprofit" as applied to any facility means a facolity which is owned and operated by one or more nomprofit corporations or associations, no part of the net earnings of which mares or may lawfully inure to the benefit of any private shareholder or mdividual
(f) "Outpstient medical fachity" means a medicol fuellity (located in or apart from a hopsital) for the dagnosis or dagnosis and treatment of ambulatory patients (meluding ambulatory mpatients):
(1) Which is operated in connection with a hospital,
(2) In which patient care is under the profensional supervision of persons licensed to practice medicme or surgery in the state, or in the case of dental diagnosis or treatment, under the professiondl supervision of peisons beensed to practre dentistry in the state, or
(3) Which offers to patients not requing hospitalization the services of licensed physicians in various medural speremelties and wheh provides to its patients a reasondbly full range of diagnontic and treatment services.
(g) "Rehabolitation facility" means a facility which is operated for the primary purpose of assisting in the relidbilitation of disabled persons through in integrated program of.
(1) Medied evaluation and services, and
(2) Psychological, social or vocational palluation und services, under competent professional supervision, and in the case of wheh the major portion of the required evaluation and serveces are turmshed with the facilty, and either the facility in operated in connuction with a houpital. or all medheal and related health servied ater preseribed by, or are the geneal direction of, persons licensed to prathee mednume or surgery in the state
(h) "Long-term care facility" means a farilty (meludng a skilled numsur or motmediate care facility) pootidng mpatient (eture for convalescent or chronic disease patients who require sialled nurnmg or intermedtate care and related medial servien.
(1) Wheh is a hospital (other thitn a hospital promarily for the eare and treatment of mentally ill or tuberculome patents) on aperated in commertion with a hospital, or
(2) In whech such care and medneal services are prenerihed by. or are performed under the general dareetion of, pestous herensed to practice medneme or surgery in the state.
(i) "Construction" means construction of new buldings and mitial equipment of such construction of sueh bunldings and, in any case in which it, will help to provide a new service not previously provided in the community, equipment of any bulding; including arehtects fees, but excluding the cost of offisite mprovements, and, except with respect to public health centers, the cost of acquasition of land
(j) "Cost" as applied to construction, modernization or conversion, means the amount found to be necessary for construction, modernization or conversion, except that in the case of a modernization project or a project assisted under Section 1625 of the federal det, such term does not melude any amount found to be attributable to expansion of the bed capacity of any facility
(k) "Modermization" means the alteration, expansion, major reparr, remodeling, replacement and renovation of existing building (meluding mitial equipment) and the replacement of obsolete equipment of existing buildings
(l) "State agency" means the State Department of Health.
(m) "Seeretary" means the Secretary of Health, Education and Welfare.
(n) "Urban or rural poverty area" means an urban or rural geographical area defined by the secretary in wheh a pereentage of the residents of the area have nemes below the poverty level
(o) "Medically underserved population" means the population of an urban or rural area denpmated by the secretary as an area with a shortage of health facilities or a population group as laving a shortage of such fachities.

## Artacle 2 Admimstration

1199 66. The State Department of Hpalth shall constitute the sole agency of the state for the following purposes
(a) Admmister the State Medied Facilitien Plan
(b) Make a statewide inventory of health facilities
(c) Require such reports, make such moppections and preseribe such regulations as the department demm neressary
(d) Provide such methods of adminstration, appoint such persomel and take such other aetion as mayy be necessary to comply with the federal act, this chapter and regrulations tharrunder
(e) Make an annual ipport to the Governor and to the Leghature on activities and expenditures panamat to thes chapter, including recommendations for such additional legrslation as the department considers appropriate to furmsh adequate health facilition and services to tlic people of this state

119967 . The Statewade Health Conrdimang Councal shall adyse and consult with the department in earre mig out the admumitation of this elapter and shall ipptove the State Merlecel Facilities llan developed pursuant to this chapter and Section $1524(c)(2)$ of the federal act.

119968 The department shall make an inventory of existing health fachlities, including public, nonprofit and propretary, and develop a medical fachities plan based upon the mventory, a survey of need and the plans of the health system agencies withon the state The plan shall include :
(1) The number and types of medical faclity beds and medical facilities needed to provide adeguate mpatient care to persons residing in the state and the distribution of sueh beds and facilities in health service areas.
(2) The number and type of outpatient and other medical facilities needed to provide adequate public health services and outpatient care to people residing in Calfornia and the distribution of such facilities in health service area.
(3) The extent to which existing medical facilities are in need of modernization or conversion to new uses

The medical facilities plan shall determine a priority among projects based upon the relative need of different areas for such projects and give special consideration
(1) To projects serving areas with relatively small financial resources and for medical facilities serving rural communties
(2) In the case of projects for modernization of medical faclities to projects for faculitues serving densely populated areas
(3) In the case of projects for construction of ontpatient facilities to projects that will be located in and provide services for residents of areas determined to be rural or urban poverty areas
(4) To projeets designed to eliminate or prevent imminent safety hazards as defined by federal, state or local fire buldmg or life safety codes or regulations or avold noncomplance with state or voluntary lieensure or accreditation standards
(5) To projects for medical facilities which alone or in conjunction with other faclities will provide comprehensive health care, includung outpatient and preventive care as well as hospitalization

119969 The department shall annually subint to the secretary a medical faclities plan wheh shall melude the health facilities construction program and shall provide for the establishment, admunistration and operation of health facilities construction activitien an accordance with the requirements of the federal act and regulations thereunder.

119970 The department shall be regulation prescribe minumum standards for the maintenance and operation of health facilities whieh receive federal assistance for construction under the federal act

1199 71. Appleations for health facility construction projects for whech federal funds are requested shall be submitted to the department by the state or any political subdivision or by a nonprofit agency authorized to construct and operate a health facility $\Delta$ pplications for grants for construction or modermzation to elmmante ol prevent safety hazards defined by federal, state and loeal fire bunding or life safety codes or regulations or avoid noneomplance with state or voluntary licensure or accreditation standards shall be submitted directly to the secretary only by state or political subdivisions of the state.

119972 The department shall afford to every applicant for assistance for a project an opportunty for a fait hearmg on the application.

119973 From time to time the department shall inspect each construction project approved bv the secretary and if the inspection so warrants, the department shall certify to the secretary that work haf been performed or purchases made, in aceordance with the approved plans and specificetions and that payment of an installment of federal funds is due to the applicant

119974 The department is hereby authorized to receive federal funds in behalf of and transmit then to such applicants Money received from the federal povermment for construction of a project approved by the secretary shall be deposited in the department's fund and shall be used solely for payments due appluants for work performed, or - purchase made, m carrymig out approved projects

SEC 3 Section 1250 of the Health and Safety Code is amended to read.

1250 . As used in this chapter "health facility" means any facility, place or building which is organzed, mantamed and operated for the diagnosis, care and treatment of human ilness, physical or mental, including convalercence and rehabilitation and including care during and after preqnancy, or for any one or more of these purposes, for one or more persons, to which such persons are admitted for a 24 -hour stay or longer except for faciufacs included wathin subdu'sion (f), and includes the following types.
(a) "General acute care hospital" means a health facility having a duly constatuted anserming body with overall adminatrative and professional responvbility and an organizad medieal staff which provides 24 -hour mpatient care, including the following basie services medieal, nursing, surgical, ancethesim, laboratory, radiology, pharmacy, and dietary services.
(b) "Acute phychiatric haцpital" means a health facility having a duly constituted goverming body with overall udmmstrative and professional responsiblity and an organzed medical staff whech provides 24-hour inpatient care for nientedly disovdered. incompetent, or other patients referred to in Division -̀ (commencing with Section $\mathbf{3 0 0 0}$ ) or Division 6 (commenemg with Sertion 6000) of the Welfare and Institutions Code, including the followny basw serveres meduen, nurung, rehabilitative, pharmacy, mad diet dry urviecs
(c) "Skilled nurning faculty" medns a health facility which provides the following beste servies sislied mumang rate and supportive care to patients whome promery need as for atallabillty of skolled nuruing care on an extended bast
(d) "Intermedute care facelity" merns a health facility wheh provides the following basce serices mpatient care to ambulatory or semambulatory patients who hase recurrmer need for skilled nursing superision and need supportive care. but who do not requre atalability of contmuous villed murumg care
(e) "Spectal hoppital" medis a liealth facility having a duly :onstituted grovermmg body with overill admimistratise and profemonal responubility and an organzed medeed or dental staff wheh provades mpatient or outpatient care in rehabilitation, denistry, or matermity.
(f) 'Surgicenter' means an outpationt fachluty which primarily proundes surgucal treatment and anesthesua services to patucnts not requiring 24-hour inpatient care and wheh is not part of a gencral acute care hospital and does not include the offices of physicuans and surgeons or dentests

SEC 6. Section 1255 of the Health and Safety Code is amended to read:
1255. In addition to the basic services offered under the license, a general acute care hospital may be approved in accordance with subdivision (b) of Section 1277 to offer specirl services including, but not Imited to, the following:
(a) Radiation therapy depquermes.
(b) Burn center services.
(c) Energey Cardionascular surgery services.
(d) Hemodialysis center (or umt) scrvices.
(e) Psychiatric unit scruces.
(f) Intenswe care newborn nursery services.
(g) Emergency services
(h) Such other special services as the department may prescribe by regulation



SEC 7. Section 1265 of the Herlth and Safety Code is amended to read:

1265 Any person, political subdivision of the state, or governmental agency desiring a license or rencwal of a license for a health faciluty or rpproval for a ereeial servee any scrmoes requred to bo approved by the state department for a health fachity under the provisions of this chapter shall file with the state department a verified application on forms prescribed and furnished by the state department, contaning.
(a) The name of the applicant and, if an monadual, whether the appljeant has atteined the age of 18 yeurs
(b) The type of fentut er health facilty
(e) The number of beds proposed for each of the follouing brd classifications: general acute care, skilled nursing care, mtermedrate carc, acute psychiatrec care, and intensuve care.
(d) The type of scritess in use or proposed for use.
(c) The location thereof
(d) ( $f$ ) The name of the person in charge thereof.
(e) (g) Evidence shitsfactory to the state department that the appleant is of reputable and responsible character If applieant is a firm, ascoelation, organization, partnership, busmess trust, corporation, or company, like evidenee shall be submitted as to the members or slareholders thereof, and the person in charge of the health faculaty for whech appleation for lieense is made If the appleant is a politied subdivision of the state or other governmental agency, hke poidence shall be submatted as to the person wo charge of the health facility for whel applection for lieense is made.
(f) ( $h$ ) Evidence satisfactory to the state department of the ability of the applicant to comply with the provisions of thes chapter and of rules and regulations promulgated under this chapter by the state department
(g) (2) Such other information as may be required by the state department for the proper admunistration and enforcement of this chapter.
(j) A verificd statement that the applicant health facility has, in compliance with Section 1190 49, recriurd a certuficatr of need for each project undertaken as described and required in Section 119951 or that the applicant facility is rrempt from Section 119949 With respect to renewal of a license, the rerificatwon shall coucr the preceding period of hecnsure.

SEC 8. Section 12655 of the Henlth and Safety Code is repealed

 efnse as a health farihty ou a farility for the mentally disordered or ineormpetent under the propisanna of thar ehapter whrelt shall eover at

 amd emergenter
 deparmant eontainime
(a) The tute aphlient fled ita eamplete applifation fap ment ount











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SEC 9. Section 126.5 7 is added to the IIealth and Safety Code, to read.

12657 The state department may revipw, but shall not approve, any construction plans or iscue my herense on renew a hrense for a health facility or approve a servie under thin chapter untul the appheant has complied with the provisions of Section 1265.

SEC. 10. Section 1267 of the Health and Safety Code is amended to read:
1267. Each license issued or rencued pursuant to this chapter shall expire 12 months from the date of its issuance and each special permit shall expire on the expration date of the license Application for renewal of a license or spectal services permit accompanied by the necessary fee shall be filed with the state department not less than 10 days prior to the expiration date. Fallure to make a timely renewal shall result m expiration of the license or special sorvices permit.

A renewal heense or special services permit may be issued for a period not to exceed two years of the holder of the lucense or special servers permit has been found not to have been in violation of any statutory requirements, regulations, or standards during the preceding hicense period.

SEC. 11. Section 1268 of the Health and Safety Code is amended to read:
1268. Upon the filing of the application for licensure or for a special scrvices permit for special services and full comphance with the provisions of this chapter and the rules and regulations of the state department, the state department shall issue to the applicant the license or special services permit applied for The license shall indacate the nuniber of beds in each bed classaficatuon and the services approwed by the department However, if the director finds that the appheant is not in complance with the laws or regulations of this part, he shall deny the applicant a heense or a special seruces permit for spenat services.

SEC 12 Section 141055 of the Welfare and Instatutions Code is amended to read.

141055 The dipeotor or




 No health fachity lacensed under the promsions of rhapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code shall receve any payment from the ducctor or from any prepoed health plan for servaces rendered to any Mchtecal program beuetcuary if either of the followng has occured:
(a) The facthty has procecded after July 1, 1970, with a project involing a new facilty, addetional bed capacity, or the converson of existing bed capacity to a new hecnse cofegory, and has fanled to obtann a favorable final decision by the volnutary area health planing ageney in the area, the concumer members of a voluntary area health plammer agency acting as an appeals body or the Advisory Health Counerl pursuant to Sections 4377 to 4385 , melusive. of the Health and Safety Code; or unless the hepnsee had filed an appheation for a heense prior to Jamuary 1, 1970, and the application met all then-
existing requirements and regulations of the appropriate state agency at the tume of application including, at least, prelmmary submission of plans, and if such licensee commences ennstruction of his project pror to July 1, 1971, and if sueh licensee has on file with the State Department of Health a notarized affidavit from the building department having jursdiction inducating that substantial progress on the approved project was attamed by January 1. 1973, and such lipensee has on file with the county recorder and State Department of Health \& valid notice of construction completion mdeatung Jamuary 1, 1974, as the completion date, except that the State Department of Health shall extend the foregomg dates by no more than a total of two rears in the ease of projects where delay has resulted from the death of the origmal applicant, and shall extend the foregoing dates by no more than a total of one year m the case of projects where other good canse has been shown why such extension should be granted The exception provided for in the preceding sentence with reapect to applications filed prior to January 1, 1970, except for transfers expented before November 30, 1970 or after July- 1 1971, shall not apply to transferees of the applications of the origmal applecants

Voluntary area health plaming agences may extend, until July 1, 1972, the date upon which appleants, qualifying under the exeeption in this section, shall commence construction, if the voluatary area health planning agencies declare that good cause has been shown why such extension should be granted, provided that an applicant applying for such extension had, prior to Jomuary 1, 1970, recelved approval of a health planning association $m$ the countr wherem the applicant is loented Appleants recelving extension of the construction commencement date shall have on file with the State Department of Health a notarized affidavit from the bulding department having jurisdiction mdicatang that substmitul progress on the apmoved project was attamed by January 1, 1974, and have on file with the country recorder and State Department of Health a valid notier of construction completion indicatimg January 1, 1975, as the completion dute; except that the State Department of Health shall extend each of the foregong dates by no more than a total of one year mo the case of projects where good cause has been shown why such extension should be granted
(a) For the purposes of thin spiction, "substantial progress" is defined and evidenced as follows.
(1) For structures of three or fewer stories, completion of the foundations and footugs, the structural frame, the mpehancal, electrical, and plumbung rough-in; the rough floormg, the exterior walls and windows; and the fimshed roof
(2) For structures of more than three stories, a contractor's schedule of work shall be filed with the State Department of Health by Junury 1, 1973 Every three months thereafter, untal completion, evidence shall be submitted to the department that construction is progressing on that schedule.
(b) For the purposes of this section, construction of a project is deemed commenced on the date the applicant was so notified by the State Department of Health, if so notified, or on the date the applicant has completed not less than all of the following;
(1) Submission to the approprate state ageney of a written agreement executed between the applicant and a licensed general contractor to construct and complete the facility withon a designated time schedule maccordance with final arehntectural plans and specifieations approved by such agency.
(2) Obtaining such initial permits or approval for commencing work on the project as is customarily issued for projects of the seope of applicant by the governmental agency having jurisdiction over the construction
(3) Completion of construction work on the project to such a degree as to justify and require a progress payment by the appheant to the general contractor under terms of the construction agreement
(b) The facthty has prococded after Jamuary 1, 1976, whth a progect included un the prowsuons of Scction 119951 of the Health and Safcty Code without obtamang a cortificate of need as requited by Sectuon 119949 of the Health and Safety Cote

SEC. 13. This act shall become operative January 1, 1976 "
Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means.

## ADJOURNMENT

At 1030 pm , Speaker pro Tempore Papan declared the Assembly adjourned untıl 1 pm, Tuesdar, August 26, 1975.

LEO T. MeCARTHY, Speaker
ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAIIY JOURNAL

## FORTY-FOURTH LEGISLATIVE DAY <br> ONE HUNDFEDTH CALENDAR DAY

## IN ABSEMBLY

Assembly Chamber. Sacramento Tuesday, August 26, 1975
The Assembly met at 1.14 pm
Hon Leo T. MeCarthy, Sperker of the Assembly, presiding.
Chief Clerk James D Driscoll at the Desk
Assistant Clerk Ray Mondny reading.

## ROLL CALL

The roll was called, and the followmg answered to their names-75:

| Antonosich | Collier | Knox | Perino |
| :---: | :---: | :---: | :---: |
| Arnett | Crasen | Lamicaster | Piolo |
| Bathrm | Cullen | Lanterman | Reiph |
| Bune | Dasis | Jewns | Robinson |
| Bannal | Dedileh | Loch, er | Rosenthal |
| Berman | Dinon | Mnelomald | Siegler |
| Heverly | Egelnnd | Mitdis | Sleroty |
| Boaturiglit | Fenton | MeAlister | Surt |
| Briggs | Foran | MeT_emman | 'Tbomas, Vincent |
| Brown | Goghin | Mreittie | Thomus, Willam |
| Burke | Greane | Mende | Thue man |
| Caluo | (iunlco | Miller | Torres |
| Camplopll | Hall | Mohley | Tricker |
| Carpenter | Has den | Montoya | Vicencia |
| Chacon | Hughes | Mols | Watren |
| Chapupe | 1 ngalls | Minghy | Wilson |
| Chel | Kapuloff | Nestande | Wolnum |
| Chinbole | Keene | Nimino | Mr Speaker |
| Cline | Key sor | Pupan |  |

Quorum present.

## PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

Father, You are the God of the living, not of the dead We know in our groping faith that death is not the end of a person's life but, in a sense, the beginning Today we sadly mourn the untimely death of one of our most esteemed colleagues, Edwin Z'berg

We pause to say thank You, Father, for giving us this man We thank You for the privilege of knowing him, for the dedication he brought to his life of publie service, for has integrity and skill, for his concern for the greater and more noble issues. We pray that nothing of his life will be lost now that he is no longer with us, but that it will be of benefit to the world.

We pray that the coodness that he contributed will go on living in us. With confidence in Your mercy, God our Father, we know that You saw all of his goodness and that You forgive his failures.

With faith in the resurrection we pray that we will all meet again in Your presence. May Ed rest in peace.-AMEN.

## PLEDGE of allegiance to the flag

Upon request of Speaker MeCarthy, Mr Kapiloff then led the Assembly in the pledge of allegance to the Flag.

## READING OF THE JOURNAL DISPENSED WITH

By unanimous consent, further reading of the Journal of the previous legislative day was dispensed with.

## LEAVES OF ABBENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness:

Mr. Alatorre, on request of Speaker McCarthy.
Mr. Duffy, on request of Speaker McCarthy.
The following Member was granted leave of absence for the day, on personal business, and desired to waive his per diem.

Mr. Vasconcellos, on request of Speaker MeCarthy.
The following Member was excused for the day, and his per diem was


Mr. Garamendi.
REQUEST FOR UNANIMOUS CONSENT TO HOLD SPECIAL MEETING OF COMMITTEE
Mr. McAlister was granted unanimous consent that the Committee on Finance, Insurance, and Commeree be permitted to hold a special meeting on Wednesday, August 27, 1975, at 5 pm , and that Joint Rule 62 (a) be waived for the purpose of setting Senate Bill No. 4 for hearing on August 27, 1975.

## AUTHOR'S AMENDMENTS

Committee on Judiciary
Aisemhly Chamber, Angnst 26, 1935
Mr Speaker: The Chairman of your Conmittee on Judiciary reporta:
Senate Bill No 1
With author's nmendments with the recommendntion : Amend, and re-refer to the Committee on Judiciary.

## MILİER, Chalrman

Senate Bill No. 1—An act to ampnd Sections 125.5, 2100, 2101, 2116, $2119,2361,23615,2362,2364,23725,2436,2454,2456$, and 2458 of, to add Sections $21005,21006,21007,2100.8,21015,2101.6,2122,2372$, and 2372.1 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Article 2.3 (commencing with Section 2123) and Article 24 (commencing with Section 2124.5) to Chap. ter 5 of Division 2 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Artucle 23 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code, to add Article 5 (commencing with Section 3362) to Chapter 2 of Title 2 of Part 1 of Division 4 of the Civil Code, to repeal and add Section 3405 of, and to add Chapter 5 (commencing with Section 364) to Title 2 of Part 2 of the Code of Civil Procedure, to add Section 1159 to the Evidence Code, and to add and repeal Chapter 5 (commencing with Section 11890) to Part 3 of Division 2 of the Insurance Code, relating to malpractice.

Bill read second time.
Consideration of Author's Amendments
The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

## Amendment 1

In line 2 of the title of the printed bill, as amended in Senate August 7, 1975, strike out " 2361.5 ,".

## Amendment 2

In line 3 of the title, after '"21016," insert " 2101.7, ".

## Amendments 3 and 4

In line 7 of the title, strike out " 2124 5", and insert " 2124.6 ".
Amendment 5
In line 11 of the title, after "Code," insert "to amend Section 43.8 of, and".

## Amendment 6

In line 13 of the title, after " 4 of", insert a comma.
Amendment 7
In line 16 of the title, after "Code," insert "to add and repeal Section 11587 of, ".

## Amendment 8

In line 16 of the title, strike out the second "and"; and strike out line 17, and insert "Section 11917 to, and to add Chapter 5.5 (commencing with Section 11920) to Part 3'.

## Amendment 9

In line 18 of the title, after the second "of", insert a comma.
Amendment 10
On page 8 , line 30 , after "state", insert "which constitutes unprofessional conduct under Section 2383, pursuant to the reporting requirements of Section 803;'.

## Amendment 11

On page 8, line 36, after "services', insert ", pursuant to the reporting requirements of Section 801 or $802^{\prime \prime}$.

## Amendment 12

On page 8 , line 37, after "made", insert ", pursuant to subdivision (b) of this section; (4) disciplinary information reported pursuant to Section 805'.

## Amendment 13

On page 8 , line 39, strike out "certificatee", and insert "certiffcate holder".

## Amendment 14

On page 9, line 3, strike out "certifieatees", and insert 'certifieate holders'".

## Amendment 15

On page 9 , strike out lines 7 to 10 , inclusive, and insert
"Upon a determination by the committee that the complaint is without merit, the central file shall be purged of information relating to the eomplaint."

Amendment 16
On page 9, line 11, strike out "such", and insert "central".
Amendment 17
On page 9 , line 12 , strike out ''person', and insert "licensee'".
Amendment 18
On page 9 , line 22 , strike out "person", and insert "licensee".
Amendment 19
On page 9, line 30, strike out "(except a"; strike out all of line 31; and in lime 32, strike out "with Section 120) of Division 2)".

Amendment 20
On page 10, line 17, strike out " (except a"; strike out all of line 18; and in line 19, strike out "with Section 1200) of Division 2)'.

Amendment 21
On page 11, line 10, strike out " (except a person licensed pursuant to"; strike out line 11 ; and in line 12 , strike out " 2 )".

## Amandment 22

On page 11, line 24, strike out "or Section", and insert ", 802,'".

## Amendment 23

On page 12, line 15 , after "report", insert ", who is notified by the board within 60 days of the filng of the report,".

Amendment 24
On page 12 , line 30 , after "is'", msert "denied staff privileges,".
Amendment 25
On page 12, line 32, after "restricted", insert "for a cumulative total of 45 days in any calendar year'.

## Amendment 26

On page 12, line 32, after "any", insert 'medical".
Amendment 27
On page 12, line 33 , strike out " 10 ', and insert '‘ 20 working'.

## Amendment 28

On page 12, line 35 , strike out "said", and insert "the".

## Amendment 29

On page 12, line 40, after the period, insert "The reporting required herein shall not act as a waiver of confidentiality of medical records and committee reports The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800.'

## Amendment 30

On page 13 , line 21 , strike out ' 17 ', and insert " 19 ".

## Amendment 31

On page 13 , line 30 , strike out " 17 ', and insert " 19 ".

## Amendment 32

On page 14, line 19, strike out "administering the recertification of"; and strike out all of line 20, and insert "adopting standards for continuing education pursuant to Section 2101.6."

## Amendment 33

On page 15, line 9, strike out "Five of such'"; strike out all of lines 10 and 11; m lme 12, strike out "state.", and msert "Physwian members of the board shall be appointed from physicadns who have served at least one term on a district review committee or a medical quality review committee."

## Amendments 34 and 35

On page 15, line 16, strike out "may", and insert "shall".

## Amendment 36

On page 15, line 23 , strike out 'five", and insert "seven'".

## Amendment 37

On page 15 , after line 40 , insert
"SEC. 1.13 Section 2101.7 is added to the Business and Professions Code, to read -

21017 The Governor may remove any member of the board for neglect of duty requared by this chapter, incompetency, or unprofessionst conduct."

Amendmont 98
On page 16, line 1, strike out " 1.13 ", and nsert " 1.14 ".

## Amendment 39

On page 16, line 5, after "counsel," insert "medical consultants".
Amendment 40
On page 16, line 11, after "board", insert "in all judicial proceedings".

Amendment 41
On page 16 , line 12 , strike out " 114 ", and insert " 115 '.
Amendment 42
On page 16, line 19, strike out "three', and minsert "five".
Amondment 43
On page 16, line 36 , strike out " 1.15 ', and insert " 116 '. .

## Amendment 44

On page 17 , line 15 , strike out " 1.16 ", and insert " 117 ".
Amendment 45
On page 17, line 18, strike out " 1.17 ", and insert " 118 '.
Amendment 46
On page 17, line 37, strike out "article", and insert "chapter".

## Amendment 47

On page 18, between lines 3 and 4, insert
"(d) "Department" means the Department of Cousumer Affairs"

## Amendment 48

On page 18 , strike out lines 5 to 23 , inclusive, and insert "article, into the following 14 districts:
(a) The first district consists of the Counties of Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Tehama, Plumas, Meudocino, Glenn, Butte, Lake, and Colusa.
(b) The second district consists of the Counties of Sierid, Yuba. Sutter, Yolo, Placer, El Dorado, and Sacramento.
(e) The third district consists of the Counties of Sonoma, Napa, and Solano.
(d) The fourth district consists of the Counties of Marin, San Francisco, and San Mateo.
(e) The fifth district consists of the Counties of Contra Costa and Alameda.
(f) The sixth district consists of the Countres of Alpine. Amador, Calaveras, Tuolumne, San Joaquin, Stanislaus, and Merced.
(g) The seventh district conssists of the County of Santa C'lara
(h) The eighth distriet consists of the Countres of San Bemto, Monterey, and San Luis Obispo.
(i) The ninth district consists of the Counties of Mariposi, Madera, Fresno, Kings, Tulare, and Kern.
(j) The 10th district consists of the Counties of Santa Barbara and Ventura.
(k) The 11th district consists of the County of Los Angeles
(l) The 12th distriet consists of the Counties of Mono, Inyo, San Bernardino, and Riverside.
(m) The 13th distriet consists of the Country of Orange.
(n) The 14th district consists of the Counties of San Diego and Iniperial."

## Amendment 49

On page 18, strike out lines 31 to 40 , inelusive; and on page 19 , strike out lines 1 to 19 , inclusive, and insert
"(a) The first district shall be composed of 10 members, six of whom shall hold vald physician's and surgeon's certificates, two of whom shall be public memhers, and two of whom shall be nonphysician licentiates of a healing arts board.
(b) The second district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysicians licentiates of a healing arts board
(c) The third district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's cextificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board
(d) The fourth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.
(e) The fifth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healug arts board.
(f) The sixth distruct shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.
(g) The seventh district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.
(h) The eighth district shall be composed of 10 members, six of Whom shall hold valid physician's and surgeon's certuficates, two of whom shall be public members, and two of whom shall be nonphysician licentates of a healing arts borrd
(i) The ninth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board
(j) The 10th district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.
(k) The 11th district shall be composed of 20 members, 12 of whom shall hold valid physician's and surgeon's certificates, four of whom shall be public members, and four of whom shall be nonphysieian liceatiates of a healing arts bourd
(l) The 12 th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates. three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board
(m) The 13th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates. three of whom shall be publie members, and three of whom shall be nonphysician licentiates of a healing arts board
(n) The 14th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board."

## Amendment 50

On page 19 , line 32 , strike out "adopt any rule,'".
Amendment 51
On page 19, line 40 , strike out "adopt any rule,'".
Amendment 52
On page 21 , line 9 , strike out 'by the board,'".

## Amendment 53

On page 21 , line 22 , strike out "if requested,".
Amendment 54
On page 21 , line 22 , strike out "assist and'".

## Amendment 55

On page 21, line 23, after "committee", insert "or panel on matters of law".

## Amendment 56

On page 22, strike out lines 4 to 17 , inclusive, and insert
"(a) To initiate reviews of the quality of medical care practiced by certificate holders.
(b) To initiate investigations of complants made by members of the public, other certificate holders, or a health care facility and referred to the committee by the Division of Medien Quality, that a certficate holder has been gulty of unprofessional conduct All mestigations made pursuant to this section shall be commenced mumedately"

Amendment 57
On page 22, line 20 , strike out "erreumstances'".
Amendment 58
On page 22, line 20 , strike out "any judgment or".

## Amendment 59

On page 22, line 21, strike out "settlement'", and insert "judgments or settlements".

Amendment 60
On page 22, lime 23, strike out "three thousand dollars ( $\$ 33,000$ )", and insert "a cumulative total of thirty thousend dollars ( $\$ 30,000$ )'.

## Amendment 61

On page 22, between lines 36 and 37 , insert
"(g) A committee or a panel of a committee which inveatigates a certificate holdes pursuant to this section shall not be the comnittee or panel of a committee wheh hears any discuplinary matter resulting from said mvestigation."

## Amendment 62

On page 23, line 12, strike out "board", and insert "Division of Licensmg and Examination".

Amendment 63
On page 23, line 16, strike out "board", and insert "Division of Lacensing and Exammation'".

## Amendmant 64

On page 23. line 17, strike out "board", and insert "Division of Licensing and Exammation'.

## Amendment 65

On page 23. between lines 27 and 28 , insert
"21245 Any physicinn and surgeon may communicute to the committee or panel regarding any other physucian and surgeon Such communications slall remam confidential und shitl not be almissible before any hearing or before any court except that the committee or panel may begm investigation on the basis of surh commeniegtion and may use such rommunicution to develop further information. Surh communication, except as provided in subdivision (e) of Sertion 800, shall be admbsble in a defamation action where it is alleged that communication is false and made with malice.

Copon a determmation by the committe or panel that the communication is withent merit. the central file shall be purged of information relating to the communication."

## Amendment 66

On page 23 , line 28 , strike nut " 118 '", and insert " 1.19 ".
Amendment 67
On page 23, line 29, strike out "21945", and insert "2124.6".

## Amendment 68

On page 23 , strike out lines 34 to 40 , inclusive.

## Amendment 69

On page 24, strike out lines, 1 to 25, inclasive, and insert
"212t 6 There is hereby areated under the Board of Medical Quality Assurance the Burau of Meclued Statistice The purpose of the bureatu is to provide the board and 1ts devisoms with statistival mformatwo necemary to caris out ther functions of heensmg, medical education, and medical quality and disciplue.

2124 7. The bureau shall conduct such research deemed desirable by the board and its divisions and related to their functions To the extend feasible the bureau shall draw upon existing sources of pooled health data and may purchase such mformation or contract for the development of such data. The bureau may require any state agency to transmit to the bureau statistical information not privleged under law. The bureau shall not gather or maintam statistical or other information that identifies indpidual patients, physicians or other health care providers, except for reports required by Article 11 (commeneng with Section 800) of Chapter 1 of Division 2.
2124.8 Each insurer shall, within 30 days of such termination, furnish the bureau with the names of all health care providers in this state whose malpractice liability insurance has been terminated Any health facilty that denies a health care provider privileges shall report such information to the bureau pursuant to Section 805. The bureau, upon the recejpt of information submitted pursuant to this section, shall immediately transmit a copy of such information to the named health care provider and the appropriate committee.
2124.9. The bureau shall be the repository for all reports filed with the board pursuant to Article 11 (commencing with Section 800) of Chapter 1 of Division 2.
2124.10. The bureau shall report at least annually to the Legislature on the data it has collected pursuant to this artucle Such reports and any data not privileged under the law shall also concurrently be made available to the public."

## Amendment 70

On page 24, line 26, strike out " 1.19 ", and insert " 1.20 ".
Amendment 71
On page 25, strike out lines 11 to 27, inclusive.
Amendment 72
On page 25, line 30, strike out "Lıcensing and".
Amendment 73
On page 25, line 31, strike out "Examination', and insert "Medical Quality'.

## Amendment 74

On page 25, line 39, strike out 'from the Division of Investrgation of the ".

## Amandment 75

On page 25 , line 40 , strike out "department".
Amendment 76
On page 27, line 37, after "board", insert "or any of its divisions or by a committee'.

Amendment 77
On page 28 , line 10, after "applied", nsert "solely".

## Amendment 78

On page 29, line 39, after "SEC. 2.", insert "Section 43.8 of the Civil Code is amended to read:

438 In addition to the privilege afforded by Section 47, there shall be no monetary lability on the part of, and no cause of action for damages shall arise against, any person on account of the communication of information in the possession of such person to any hospital, hospital medical staff, professional society, medical or dental school, or professional licensing board, or dirisoon, committee, or panel of such lucensing board, when such communieation is intended to aid in the evaluation of the qualifications. fitness or elharacter of a practitioner of the healing arts and does not represent as true any matter not reasonnbly believed to be true.

SEC. 3."

## Amendment 78

On page 30, line 3, strike out "Medieal Practitioners", and insert "Health Care Providers'.

## Amondment 80

On page 30, line 36, strike out " 11890 of the Insurance", and insert " 3362.10 of the Civil".

## Amendment 89

On page 31, line 6, strike out " 11890 of the Insurance", and insert " 336210 of the Civil".

## Amendment 82

On page 31, line 22, strike out " 11890 of the Insurance", and insert " 336210 of the Civil".

## Amendment 83

On page 31, line 40 , and on page 32, line 1, strike out " 11890 of the Insuranee", and insert " 336210 of the Civil".

## Amendment 84

On pare 32, line 11, after "earnings', insert "after payment of state and federal income taxes'".

## Amendment 85

On page 32, lines 13 and 14 , strike out " 11890 of the Insurance", and insert " 336210 of the Civil".

## Amendment 86

On page 32, line 32, after the period, insert "The aggregate amount of surll judgment shall not exceed the amount otherwise awardable as a lump sum."

## Amendment 87

On page 34 , line 2, strike out " 11890 of the Insurance", and insert "3362.10 of the Civil".

## Amendment 88

On page 35 , line 12, strike out "SEC. 3 ", and insert
"3362.10. "Health care provider" means any of the following:
(a) Every person licensed pursuant to the Dental Practice Act (Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code).
(b) Every person licensed pursuant to the State Medical Practice Act (Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code).
(c) Every person licensed pursuant to the Nursing Practice Act (Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code).
(d) Every person licensed pursuant to the Vocational Nursing Practice Act (Chapter 6.5 (commencing with Section 2840) of Division 2 of the Business and Professions Code)
(e) Every person licensed pursuant to Chapter 7 (commencing with Section 3000) of Division of the Business and Professions Code
(f) Every person licensed pursuant to the Chiropractic Initiative Act.
(g) Every person licensed parsuant to the Osteopathic Initiative Act.
(h) Every person licensed pursuant to Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code
(1) Every person-licensed pursuant to the Psychology Licensing Law (Chapter 66 (commencing with Section 2900) of Division 2 of the Business and Professions Code).
(j) Every general acute care hospital, as defined in Section 1250 of the Health and Sufety Code.

SEC. 4".

## Amandment 89

On page 35, line 14, strike out "SEC. 4", and insert
"SEC. 5".

## Amondment 90

On page 35, line 17, strike out " 11890 of the Insurance", and in-" sert " 336210 of the Civil".

Amundment 91
On page 35, line 30, strike out "a foreign object", and insert "an unintentially introduced foreign object or substance".

Amendment 92
On page 36, line 4, strike out "SEC 5", and insert
"SEC. 6".

## Amendment 93

On page 36 , line 12, strike out " 11890 of the Insurance", and insert " 336210 of the Civil".

## Amendment 94

On page 36, line 26, strike out "SEC. 6", and insert "SEC. 7 ".

## Amendment 95

On page 36, line 30, strike out " 11890 of the Insurance", and insert " 3362.10 of the Civil".

## Amendment 96

On page 36, between lines 34 and 35 , insert
"SEC. 8. Section 11587 is added to the Insurance Code, to read:
11587. (a) Any insured person who holds a certificate or license issued pursuant to ('hapter 5 (commenemg with Seetion 2000) of Division 2 of the Buciness and Professions Code, a license issued pursuant to the Osteopathic Initiative Act, or a license as a health facility pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, who alleges to be uggrieved by any medical malpractice insurance rate adopted by an usurer licensed pursuant to Part 2 (commencing with Section 680) of Division 1 mhy , in writing, request of such msurer an explanation of the eomposition of such rate and of ats application to him If such explauation is alleged to be inadequate, insuffictent, or is not provided within 30 days after making the request therefor, such person may file a simple petition for hearing with the commissioner The commissioner shall conduct public hearings within 15 days after a petation has been filed with him to determine whether such rate is justified, recording to the provisions of Chapter 9 (commencing with Section 1850) of Part 2 of Division 1.

The public hearing shall be conducted pursuant to Chapter 5 (commenceng with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that any affected person, or his legal representative, shall, upon application to the commissioner at lenst five days prior to the hearing, be allowed to reasonably participate in the examination of the insurer The commissoner shall determine within 45 days after surh pettion has been filed whether anch rate is so justified. In the event the commisioner finds such rate, or some part thereof, not to be so justified, he shall inform the insurer, in detail, of the facts upon which he buses lis conelusion and of the sperfie provisions of law upon which he relies In addition, the commissioner shall order the insurer to eather reduce the rate to the level depmed by him to be justified or cancel the policy upon 60 days notue to the insured and tender to the insured all of the then unearned premium due such insured Surch order shall be effective 1.5 days from the date thereof, npon which date such masurer shall mall any cancellation notice required to be given an afferter insured
(b) For the purpone of this afetion. two or more petitions received by the commissomer alleging grevanees soncerning one rate adopted by an usurer shall be comsidered. hearl, and detemined simultaneously If additional such petitions alleging suhstantially sinilar grievances are recered by the commssioner after the ssuance of a determinathon by him upon earlier filed petitions as herem provided, such addutional petitions shall be automatuenlly subject to sueh determination, wheh fact the commessoner shall rommunicate in writurg to the petitwiter and his insurer. The commssioner shall disregard and deny
any petition alleging grievances based upon any rate increase not greater than 10 percent of the annualized rate previously charged the petitioner:
(c) Prior to such public hearing the insurer shall submit to the commissioner such information as the commissioner may require to justify the rate increase. Such mformation shall be a public record and shall be made available upon request to any person, provided that the requeating person shall pay the reasonable cost for the reproduction of such information.
(d) The commissioner shall have the anthority to subpoena all books, records, data, and parsons deemed necessary to make such a finding pursuant to subdivision (a)
(e) The provisions of this section shall remain in foree and effect until December 31, 1976, and on that date, this section is repealed, except that they shall continte in effect from year to year upon a finding by the Insurance Commissioner 30 days prior to the beginning of each year that there still exists a molpractice msurance crisis."

## Amendment 97

On page 36, strike out lines 35 to 37 , inclusive, and insert
"SEC. 9. Section 11917 is added to the Insurance Code, to read:
11917. The board of directors of the association shall, effective January 1, 1976, amend its plan of operation to authorize the expcution of an agreement, with the Californan Medical Malpractice Joint Underwriting Association authorized by Chapter ......... of the 1975-76 Third Extraordmary Session whereby all rights, obligations, powers, privileges, books, records, assets, and liabilities of the associatron shall, as of January 1, 1976, be transferred to, assumed by and delegated to the California Medical Malpractice Jont Underwritiog Association, whether such matters be contingent, remote, vested or mehoate Such transfer shall not impair or restrict any contract or other right created by this chapter and shall be nontaxable, Such agreement shall be approved by the commissioner and shall be executed within five days after the issuance of his order of approval

SEC 10. Chapter 55 (commeneing with Section 11920) is added to Part 3 of Division 2 of the Insurance Code, to read:

## Chapter 5.5. Callfornia Medical Malpractice Joint Underwhiting Association

## Article 1. Definitions

11920. As used in this act :
(1) "Assocration" means the California Medical Malpractice Joint Underwriting Association established pursuant to the provisions of this chapter.
(2) "Commissioner" means the Insurance Commissioner of this state.
(3) "Reform commission" means the California Medical Malpractice Negligence Law Reform Comnussion established pursuant to the provisions of this chapter.
(4) "Health care provider class A" merns any person licensed pursuant to the provisions of Chapter 5 (commencing with Section 2000) of Divinon 2 of the Business and Professions Code, or Incensed pursuant to the Onteopathic Intiative Act. "IIealth eare provider class B' means any person licensed pursuant to ('hapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code (except skilled nursing fachities) Both such elasses shall include the suecessor in interest or legal representitive of such lieensees.
(5) "Medical mapractice msurance" moans insurance coverage rganst the legal hability of the insured against loss, damage, or expense incident to a clam arising out of the death or injury of any person as the renult of negligence or malpractice in rendering professional tervice by any licensed health care provider, either class $A$ or cluss B
(6) "Net direct premiums" means gross direct premiums written on liability insuratue, including the liability portion of multiperil policies, of all-risk polieses, and of automoble insurunce policies, less return premumus, dividends puid or eredited to poluyholders, and any surplus preminm deposits. "Net direct premiums" shall not menn uny reinsuranee premiums or premums for ocean marme insurasee.
(7) "Adrance sums" means any contribution required by this chapter to be made by nembers of the ussociation to the association as necessary for ats sound financial operation
(8) "Predecessor body" means the joint underwriting association established by Chypter 93 of the Stututes of 1975 , if the commissioner has made any finding of substantinl umavailability authorized by subdivision (b) of Seption 11895 prior to the effective date of this chapter.

## Article 2. Joint T'nderwriting Association

11921. (a) Within 10 days after the effective date of this chapter, the commissioner shall convene a mepting of all those insurers authorized to transact and engaged in tramsacting within this state, on a direct basis, liability insurance including the liability portion of multiperil policies, of all-risk policies and of automobile insurance policies but not of ocean marine insurunce nor of reinsurance. At such meeting such insurers ahall establish the Californin Mediaral Malpractice Joint Underwritug Assouiation Every such insurer shall be a member of the association and shall romain a member as a conditon of its anthority to continue to transuet sueh kind of inhurance in this state. All such insurers. on and after the effective date of this chapter, by continning to hold a eertbicate of atuthorization to transact such liability insurance, shall be deemed to have consented to the responsibilities imposed by this chapter
(b) Withm 30 days after the effective date of this chapter. the directors of the asociation shall submet to the commussioner for his review a proposed plan of operution consistent wath the provisions of this rhapter The plan of operation shall provide for ceonomic, fair, and nondseriminatory admmstration and for the prompt and efficient provision of medical malpractice insuramee, and shall contain other
provisions including, but not limited to, the advancement of sums by all members for initial expenses necessary to commence operations, establishment of necessary facilities, adminustration of the association, financing techniques for the assnciation, commission arrangements, reasonable and objective underwriting standards, acceptance and cession of reinsurance, appointment of servicing carriers or other servicing arrangements, installment payment of premiums during periods not to exceed 365 days, and procedures for determining amounts of insurance to be provided by the association. Such plan shall give due consideration to, and to the extent desirable and consistent with the provisions of this chapter, be coincident with the plan of operation of the predecessor body. Such a plan may make separate provision, to the extent necessary, for insurance to be issued to health care provider class $A$ and health care provider, class B
(c) The plan of operation shall be subject to approval by the commissioner If the commissioner disapproves all or any part of the proposed plan of operation, the directors shall, within 10 days, submit for review an appropriate revised plan of operation or a part thereof. If the directors fail so to act, the commissioner shall promulgate a plan of operation or a part thereof, as the case may be The plan of operation approved or promulgated by the commissioner shall become effective and operational upon order of the commissioner, who shall act not later than 45 days from the effective date of this chapter
(d) Amendments to the plan of operation may be made by the directors of the association, subject to the approval of the commissioner, or shall be made at the direction of the commossioner.
(e) The association shall periodically consult with the screening committee of the medical soclety of any county with respect to which the commissioner has made the finding authorized by Section 11926 for assistance in determining whether applicants for insurance meet the underwriting standards of the association promulgated in the plan of operation.
(f) On the effective date of this chapter, and consistent with the provisions of this chapter, the commissioner shall forthwith modify and adopt, as an interim plan of operation, any plan adopted by predecessor body, to remain in effect until the adoption of a plan of operation hereunder.
11922. The association shall be governed by a board of 11 directors who shall initally be the same persons as the directors of the predecessor body. Any vacancy in such board shall forthwith be filled by appointment by the commissioner of a qualified person or entaty to serve until the termination of the current period of office in which such vacancy oceurs Thereafter, such durectors shall be elected annually. Seven of such directors, of which four shall be domestic insurers and three shall be foreign insurers. shall be elected at a time and place designated by the commissioner from the members of the association. The four remaining directors shall be licensed physuctans practicing in counties declared eligible for medical malpractice insurance through the association.
11923. (a) Except as provided in this section, the association shall be the exclusive agency through which medical malpractice insurance may be transacted on a primary basis for any health care provider in any county in this state. The association may operate in any such county only upon a finding by the commissioner, after public hearing, that medical malpractice insurance is not substantially avalable to health care providers through private insurers operating therem and that such county is elogible for insurance through the association Thereafter, if the commissioner determines, upon application of any interested party and after public hearing, that there is a substantial likelihood that medical malpractice insurance will become available through private insurers in any such county with respect to which he has previously made such finding, the association shall thereupon cease its underwriting operations in such county. In either event, the commissioner shall make separate findings with respect to health care providers, class A, and health care providers, class B. In the event the commissioner has made any sumlar such findings with respect to such classes under Section 11895, such findings shall, for the purposes of this chapter be deemed to have been made under this chapter as of the effective date of this chapter.
(b) Nothing contained in this chapter shall prohibit the offer, sale, issuance, delivery, or renewal of any policy of medical malpractice insurance in any of the following situgtions.
(1) Which provides coverage only $m$ excess of the maximum coverage offered by the association pursuant to the plan of operation.
(2) To an applicant who has been denied medical malpractice insurance by the association for fallure to satisfy the underwriting standards of the association as prescribed in the plan of operation
(3) To a health care provider, class B, subseguent to a finding pursuant to subdivision (a), if such polvy of medical malpractice insurance includes coverage for liabolities arising within the scope of employment of physicians employed by the health care provider, class B.
(c) Nothing contained in this chapter shall affect the valudity of any policy of medical malpractice insurance lawfully issued or delvered prior to the effective date of the plan of operation, or issued or delivered by predecessor body.
(d) Nothing contained in this chapter shall prohibit the renewal of any policy of medical malpractice insurance lawfully issued or delivered prior to a finding made pursuant to subdivision (a) hereof, provided, however, that immediately after such renewal, the msiupr bhall msure and continue to insure an approximately representative sample of rating classifications so that no substantial adverse selection agamst the association shall result In order to ensure complance with this subdivision, each such insurer so renewing shall provide the commisioner with a monthly summary, due the 10th day of each succeeding month, containung such information and in such form as the commssioner shall specify The commissioner shall have the power to mspect each such insurer's books and records upon prior notice, at any time to obtain such other information he deems necessury.
(e) Except as herein provided, no policy of medical malpractice insurance shall be offered, sold, issued or delivered to a class $A$ or class B health care provider in any county declared eligible by the commissioner except by or through the association
11928 The purpose of the association shall be to provide, for the calendar year 1976, a contingent market for medical malpractice insurance on a self-supporting basis without ultimate subsidy from association members

11929 The association shall, pursuant to provisions of this article and the plan of operations with respect to medical malpractice msurance, have the power on behalf of its members to do any of the following:
(a) Issue or to cause to be issued policies of insurance to applicants includung incidental coverages and subject to hmits as specified in the plan of operation but not to exceed one milhion dollars ( $\$ 1,000,000$ ) for each clamant under one poliey and three million dollars ( $\$ 3,000,000$ ) for all clamants under one policy in any one year
(b) Underwrite such insurance and adjust and pay losses with respect thereto or appoint service companies to perform those functions.
(c) Assume remsurance from its members
(d) Cede remsurance
(e) Assume the rights and obligations of the predecessor body

Such powers may be exeressed durectly or by contractual assumption and delegation.
11930. All medical malpractice insurance policies issued by the association shall be on an occurrence basis only, and the policy form therefor shall be filed with the commissioner Such poheres shall provide for contmuous coverage commenemg with their respective effective dates and termmating automatically not later than December 31, 1976 Such policies shall be assessable and shall make provision for payment of dividends
11931 The policy shall provide that the association may cancel the same in the event of nonpayment of any premum assessment or other charge by mailing or delvermg to the msured at the address shown in the policy written notice stating when, not less than 10 drys thereafter, cancellation shall be effective
11932 (d) The rates, rating plans, rating rules, rating classifications, and territories applicable to mourance written by the association, and the statistics relating thereto, shall be subject to the provisious of Chapter 9 (commenemg with Section 1850) of Part 2 of Division 1, giving due consideration to the past and prospective loss and expense experience of medichl malpractice insurers, trends in the frequeney and scyerity of losses, the mentment meome of the association, and such other mformation as may be relevant All rates shall be on an actuarially sound basis, giving due consideration to a group retronpective ratug plan, and thall be calealated to be self-supporting Such rates shall be deemed not madequate if they are so constituted that the expense and loss costs of the association are equal to or exceeded by piemium Competition or lack thereof shall not be considered as a ratung standard thereunder.
(b) All policies issued by the association shall be subject to a nonprofit group retrospective rating plan under whech the final premium for all pohcyholders of the association as a group, shall be equal to admomstrative expenses, loss and loss adjustment expenses, and taxes. plus an allowance for contingencres and servieng Policyholders shall be given full eredit for all investment income. net of expenses and a reasonnble management fee, on policyholder supplied funds The final premium for all polectholders of the association, as a group, shall be limited as provided $m$ this chapter.

The commissioner shall make the examination provided for under Article 6 (commencing with Section 1857) of Chapter 9 of Part 2 of Division 2 as often as he deems appropriate to ensure that the group retrospective rating plan is being operated in a manner consistent with this section. If he finds that it is not being so operated. he shall issue an order to the association. specifying in what respect its operation is deficient and stating what corrective action shall be taken

11933 All members of the association shall participate in its writings, expenses, servicing allowances, management fees, profits and losses $m$ the proportion that the net direct premium of each member (excluding that portion of premum attributable to the operation of the assoctation) transacted during the immediately preceding calpadar year bears to the aggregate net direct premum written in this state by all members of the rssociation Edeh member's participation in the assocmation shall be determuned annually on the bass of such net direct premium written during the preceding calendar vear. No member shall partzeipate in any loss or expense in any one year in an amount in excess of 1 percent of its surplus to polweyholders attrubutuble to hability msurance or the lability portion of multipernl, all-risk or automobile insurance written in this state

11934 In the event that sufficient funds are uot avalable at any time for the sound financial operation of the assoctaton pending recoupment as provided in Section 11936, all members shall eontribute to the financial requirements of the ascoulation by payment of advance sums in the mamer provided for in Section 11935 Any such advance sums shall be rembursed to the member, following recoupment as provided in Section 11036 The necessity for, amount of, and payment date of any advanes sums shall be determined by the commishoner. Interest at a rate equal to $2 f$ perent per anmum abose the then current rediscount rate of the Federal Reserve Bank of Aam Franeseo vhall be added to the advance sums patyble by any menber wheh fals to submit such sum requested by the rommustoner witho 30 days after such request In no event, however, shall the interest rate exceed the legral maximitm

11935 Cpon order of the commissioner, all insurers wha are members of the assoctation shall pay advance sums to the asoeration in the proportion that the net direct premitums of each uuch member (exctuding that portion of premiums dittributable to the operation of the asoociation or predecessor body) written durng the immedately preceding calendar year bears to the dgge coate net duect premuma written in this state by all members of the associdion The amount of adaance sums
payable by each insurer shall be determined annually on the basis of such net direct premiums written durmg the preceding calendar year, as reported in the annual statements and other reports filed by the insurer with the commissioner No member shall be obligated in any one year to pay advance sums to the association on account of its proportionate share in the initial expenses or the loss from operations of the association in that year in excess of 1 percent of ths surplus to policyholders attributable to liability invarance or the lability portion of multiperil, all-risk or antomobile momince written in thes state
11936. Within 30 days of the commencement of each calendar year, the association shall certify to the commissioner the amount of all advanced sums paid it during the preceding yenr. begmming with the year 1978 Within 45 days after such certification. the commissioner shall authorize the assocmation to commence recounment of such advanced sums by making an equitable assesment agomst persons who obtained insurance through the assocition or predecessor body Any member of the association prying advance sums shall annurilly be entitled, on or after a date fixed by the board of directors, to recoup all such advance sums. together with uiterest thereon at the legal rate, from the assocmation out of a reserve established by it for such purposes Such reserve shall be funded by premum or by assessment income derived as herein provided

11937 Any member of a class of health care provider operating in a county declared ehgible by the commassoner shall on or after the effective date of the plan of operations, be entitled to apply to the assocution for medical malpractice insurance Such appleation may be made on behalf of an applicant by a broker or agent authorized by the applicant

If the association determines that the applicant meets the underwriting atandards of the association as prescribed in the plan of operation, the association upon receipt of the premum or such portion thereof as is prescribed on the plan of operation, shall cause to be issued a policy of medacal malpractice insurance.

11938 Any applicant to the assocation, any person insured pursuant to this article, or their represputatives, or any affected member. may appeal to the board of directors within 30 days after any ruling, aetion or decision by or on behalf of the assocation with reapect to those items the plan of operation defined by the board of dirretors as appealable matters Any decision of the bmard may be appedted to the commissioner within 30 days subsequent to such detion All orders of the commissoner made pursuant to this chapter shall be subject to judreial review.

11939 The association shall file in the office of the commissioner. ammally on or before the first diyy of Mareh, a statement whuch shatl contam information with respeet to its tramsactions, condition, operatoons, and affars during the precedme year Such statement shall eontain such matters and information as are preseribed and shatl be m such form as is approved by the comminsomer The commasumet may, at any time, requre the association to furmish additional mformation
with respect to its transactions, condition or any matter connected therewith considered to be material and of assistance in evaluating the scope, operation and expersence of the association
11940. The commissioner shall make an examination into the affairs of the association at least annually Such examination shall be conducted and the report thereon filed in the manner prescribed in Article 4 (commencing with Section 730) of Chapter 1 of Part 2 of Division 1.

## Article 3. General Provisions

11945. There shall be no hability on the part of, and no cause of action of any nature shall arise agamst the reform commussion, the association or its members, the commissioner or dus authorized representatives, my county medual society or any other person or orqanization, for any statements made in good fath by them during any proceeding or concernmg any matters within the scope of this chapter

11946 The association shall not be a member of the Califorma Insurance Guaranty Association nor shall that latter association be otherwise responsible for losses sustaned by the association.

11947 In accordance with the plan of operation, the association may appoint one or more of its members as a servicing company Each servicing company shall be reimbursed by the association for all reasonable expenses it incurs and for all payments it makes on behalf of the association Ench servicing company shall have authority to perform any functions of the association that the board of directors lawfully may delegate to it, and to do so on behalf of and in the name of the association The destgation of servicing companies shall be subject to the approval of the commissioner.
11948. Upon the approval by the commissioner, the association shall have the authority to borrow funds when necessary to effectuate the provisions of this chapter

11949 The association, either in 1ts own name or through servicing companies, may sue and be sued and magy use the courts to assert or defend any rights the association may have by virtue of this chapter as reasonably necessary to fully effectuate the provisions thereof
11950). The association simil be the suceressor-m-mterest to the joint underwriting assonation established pursiant to ('hapter 5 (come meneng with Section 11890) of Part 3 of Dusisinn 2 The plan of operation shall. by operation of law, provide for the ascumption and transfer of and delegation to the association of all books and records, responsiblities, powers, privileges, rights, oblgations, assets and liabilities of such jomt underuritmg asombation, whether evintmo, contingent, remote, vested or inchoate, retroactise to the effectire date of this chapter All rights, obligations, powers, and priniliges under
 shall be assumed by and delegated to the assoclation and the plan of operation shall so provide All such policies shall be deemed to have been issued by the association and shall be admmistered by it pursuant to provisions of the plan; provided, however, that any contractual
rights, including those relating to insured liabilities and premium and assessnient rights, shall continue to subsist and shall not be impared or restricted by the association. The association shall administer such policies and their attendant claims, rights and oblggations in a mamer which is segregated and distinet from other business of the assoctation.
11951. The commissioner shall, on or before the first day of July in each year commencing in 1976, make a report to the Governor, the Speaker of the Assembly, and the President pro Tempore of the Senate, regarding the transactions, condition, operations, and affars of the association durmg the preceding year, and such other matters concerning the medical malpractice insurance business deemed appropriate by him.

## Artiele 4. Negligence Law Reform

11955. (a) The Calformia Medical Malpractree Negligence Law Reform Commission is hereby created, consisting of the following members the lusurance Commssmoner; the Director of the State Department of Health; a representative of the California Medical Malpractice Underwriting Association, selected by its board of directors, two members of the medical profession and one msurance agent or broker, all designated by the Speaker of the Assembly, two members of the State Bar and two insurers, all designated by the Senate Rules Committee One Member of the Senate, designated by the Senate Rules Committee, and one Member of the Assembly, designated by the Speaker, shall serve as ex ofticto members
(b) The Insurance Commissioner shall be the chairman of the reform commission. A majority of the members thereof shall constitute a quorum for the transaction of business
(e) Any state offictal who is a member of the reform commission may dengnate an employee of lus agrency as a delegatee of his powers and dutes on the reform conmission
(d) On or before December 31, 1976, the reform commission, after consulting pubbely and privately with affected parties and any state or federal agency, shall prepare atid submit to the Lexiblature areport of its review of the operation of the common lan of negligence as applied to medical malprietiee, meludmg both procedural and unbunatise as. pects thereof The reform commssion shall also comsider the impact of such body of law on the mencince mechanism and the momribility, $\mathrm{h}_{1}$ censing, disemplinme and qualifieations of heensed phymerins and other health care providers The reform commssion may make such unterim reports as it deems desirable
(e) The reform commssion shall recommend such ehanges in the turt law and in the laws governing health care providers ds it leems necerssary with a view toward redueng the mendenere of medhed mouries, reducing the cost of litigatng the consequences of subl mjuries, reducing the cost of admmatering the msurdue merhamom therefor, and alterng standards for elpribilty for and nature and amounts of compensation for persons so injured or alleging themselses to be so mjured.

SEC 11 On December 311976 Sections 11926 and 11937 of the Insurance Code as added by Section 9 of thas act shall cense to be effective, after whel time no new or renewal polimes of medical mitpractice msurime shall be iscued by the Calloformal Medical Malpractice Joint Tinderwiting Asonctation Exeppt as herem provided, all other sections of the Tusurance Corle added br Sestion 9 of this act shall remam meffect all then-inued polmes of mederal malpractice insurance shall contime in force until their expiration or cancellation, and the Galiforma Medical Malpratsee Joint T'nderwritue Associdion shall contmue to operate as provided in the act untal all insured liabilities of such assoctation are extinguivhed

SEC 12 The Tegestature herebv derlapes its intent that, to the maximum extent possble this art shall be ennstrued in such a manner as will preserye its ralidite as a whole, whether or not partreular provisions or appleations are held mwald If anve provions of this det or the application therenf to any person or circumstance is held medud, such mveludite shall not affect other provisums or applications of this act wheh can be given effect without the mwald provison or appleation To this end, the provisimes of this act are dealared to be severable

SEC 13 No approprution is made by this aet, nor is any obliqation ereated thereby wuder Section 2231 of the Revenue and Taxation Code, for the rembarsoment of anv local arency for any costs that may be ineurred by it mearrymg on amy program or performing any service required to be carried on or performed by it by this act."

## Amendment 98

Strike out pages 37 to 46 , inclusive.
Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

# AUTHOR'S AMENDMENTS Committee on Judioiary 

Acsembly, Fhamher Auguat 20, 1075

Senate Bill No 7
With nuthor's amentments whth the recommendation Ampnd nind ie-refer to the Committee un Judiciais.
MII.J.ER ('hanmall

Senate Bill No. 7-An aet to amend Sections 125.5, 2100, 2101, 2116, $2119,2361,23615,2362,2364,23725,2436,2454,2456$, and 2458 of, to add Sections $21005,21006,21007,21008,21015,22016,2122$, 2361 3, 2372, and 23721 to, to add Article 11 (commencmg with Section 800) to Chapter 1 of Drision 2 of, to add Article 23 (commencing with Section 2123) and Artiele 24 (commencing with Section 2124.5) to Chapter 5 of Drwsion 2 of, to add Article 85 (commencmg with Section 6146) to Chapter 4 of Division 3 of, to repeal Section 2372 of, to repeal Artirle 11 (commeneng with Section 800) ot Chapter 1 of Division 2 of, and to repeal Article 23 (commencity with Section 2123) of Chapter 5 of Division 2 of, the Busmess and Professions Code, to amend Section 438 of, and to add Section 33331 to the

Civil Code ; to amend Sections 3405 and 10945 of, and to add Section 667.7 to, the Code of Cwil Procedure, to add Division 17 (commencing with Section 21005) to the Health and Safety Code, and to add Sections 11587 and 11588 to the Insurance Code, relating to health.

Bill read second time.
Consideration of Author's Amendments
The following author's amendments, pursuant to the Assembly Rules, were read, and adopted.

Amendment 1
On page 8, line 10, of the printed bill, as amended in Senate August 14, 1975, after "of", insert " $a$ ".

Amendment 2
On page 8 , line 23, strike out "certticatees', and insert "certificate holders".

## Amendment 3

On page 8, line 32, strike out 'person'", and insert "licensee'".

## Amendment 4

On page 9 , line 2, strike out '"person'", and insert "Incensee'".
Amendment 5
On page 17, line 8, strike out "artıcle", and insert "chapter'".

## Amendment 6

On page 17, between lines 14 and 15 , insert
"(d) "Department' means the Department of Consumer Affairs"

## Amendment 7

On page 21, strike out lmes 15 and 16, and insert
"(a) To initiate reviews of the quality of medieal "are practiess".

## Amendment 8

On page 21, strike out lines 18 and 19 , and insert
"(b) To initiate investigations of complints made by".
Bill ordered reprinted, and to be re-referred to the Committec on Judiciary.

## MOTION TO RECONSIDER ABSEMBLY BILL NO. 4 CONTINUED

By unammons consent, the motion to recominder the sote on Assembly Bill No. 4 was contmued until the next legimatare day

## ADJOURNMENT

At 115 p.m, Speaker McCarthy declared the Assombly adjoumed until 9 a m., Wednesddy, Augunt 27, 19ī́

LEO T. McCARTHY, Speaker
ANABEL」 FLET'RY, Minute Clerk

## CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBIY DAIIY JOURNAL

# FORTY-FIFTH LEGISLATIVE DAY ONE HUNDRED FIRST CALENDAR DAY 

## IN ASSEMBLY

Assembly Chamber, Sacramento
Wednesday, August 27, 1975
The Assembly met at 1031 a m
Hon Lous J. Papan, Speaker pro Tempore of the Assembly, presiding

Chief Clerk James D Driscoll at the Desk.
Assistant Clerk Ray Monday reading.

## ROLL CALL

The roll was called, and the following answered to their names-77:




Quorum present.

## PRAYER

Upon invitation of Speaker pro Tempore Papan, the prayer was offered by Hon John L E C'ollier, Member, fist Distnct

## PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker pro Tempore Papan, Mi Nummo then led the Assembly in the pledge of allegance to the Flag.

## MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previons legslative day was dispensed with on motion of Mr Boaturight, seconded by Mr MacDonald.

## LEAVES OF ABSENGE FOR THE DAY

The following Members were granted leares of absence for the day, on personal busmess, and desired to wave thenr per diem
Mr Keysor, on request of Speaker pro Tempore Papan
Mr. Vasconcellos, on request of Speaker pro Tempore Papan.

## COMMUNICATIONS

Assembll Chamher, Augist 27, 1975
Mer. Speaker Pursuant to your instuctiour, the ('hef ('leak has examined
Assembly Ball No 2
And reports the same cortectly engionsed
TAMES D DRISCOJ.I, Chief Cleik
Above bill re-referred to committee
CONSIDERATION OF DAILY FILE
UNFINISHED EUSINESS
MOTION TO RECONSIDER ASSEMBLY BILL NO. 4
In compliance with a motion given on a previous day, Mr Goggin moved that the vote whereby Assembly Bill No 4 was refused passage be reconsidered.

The roll was called,
Call of the Assembly
Pending the announcement of the vote, Mr Beverly moved a call of the Assembly

Motion carried Time, 1040 a m
The Speaker pro Tempore durected the Sergeant at Arms to close the doors, and to bring in the absent Members.

## PROCEEDINGS UNDER CALL OF THE ASSEMBLY BY UNANIMOUS CONSENT <br> TEMPORARY SUSPENSION OF ASSEMELY RULES

Mr Berman was granted unanimous consent that the Assembly Rules be temporarily suspended for the purpose of placing a call of the Assembly on any matter before the House, and to permit the Assembly to conduct further business while under a call of the House

## RECESS

By unanimous consent, at 1041 a m , Speaker pro Tempore Papan declared the Assembly recessed.

## REASSEMBLED

At $11 \cdot 35$ a.m, the Assembly reconvened
Hon. Jolian Dixon, Member of the Assembly, 49th District, presid. ing.

## CALL OF THE ASSEMBLY DISPENSED WITH ON MOTION то

 RECONSIDER ASSEMBLY BILL NO. 4At 11.36 am ., on motion of Mr Beverly, and in the absence of any objection, further proceedings under the call of the Assembly were dispensed with.

The vote whereby Assembly Bill No. 4 was refused passage reconsidered by the following vote:

| AYES-41 |  |  |  |
| :---: | :---: | :---: | :---: |
| Alatorre | Fenton | Knox | Rosenthal |
| Bane | Foran | Lockser | Siegler |
| Berman | Garamendí | McAlister | Sleroty |
| Boatwright | Gogsm | McVitie | Suitt |
| Calvo | Greene | Meade | Torres |
| Carpenter | Gunico | Miller | Vicencia |
| Chacon | Hart | Montosa | Warren |
| Chumbole | Hughes | Mors | Wulson |
| Dixon | Incalls | Ralph | Wornum |
| Dufy | Kapuloff | Robinson | Mr Speaker |
| NOES-32 |  |  |  |
| Antonorich | Cheppie | Kepne | Murphy |
| Arnett | Chel | Lancaster | Nimmo |
| Badham | Chne | Lonterman | Papan |
| Bannal | Colher | Lewis | Perino |
| Beverly | Craven | Minctronald | Priolo |
| Briggs | Cullen | Mncth | Thomas, Vincent |
| Burle | Deddeh | McLennan | Thomas, Willam |
| Campbell | Hay den | Mobley | Tucker |

Requeat for Unanimous Consent to Pass Assembly Bill No. 4 on File
Mr Goggin asked for unanimous consent that Assembly Bill No 4 be passed on file

Mr. Briggs withheld unanimous consent.
Motion to Pass Assembly Bill No. 4 on File
Mr. Goggin moved that Assembly Bill No 4 be passed on file.

## Objectiona Withdrawn

Mr. Briggs withdrew his objections to passing Assembly Bull No. 4 on file

Assembly Bill No 4 passed on file.

## COMMITTEE MEETING CANCELED

Mr. McAlister announced that the meeting of the Committee on Finance, Insurance, and Commerce seheduled for 5 pm today had been canceled,

## ADJOURNMENT

At 11.40 am, Acting Speaker Dixon declared the Assembly adjourned untal 1 pm , Thursday, August 28, $197 \bar{j}$.

LEO T. MeCARTHY, Speaker
ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

# ASSEMBLY DAILY JOURNAL 

# FORTY-SIXTH LEGISLATIVE DAY <br> ONE HUNDRED SECOND CALENDAR DAY 

## IN ASSEMBLY

Assembly Chamber, Sacramento
Thursday, August 28, 1975
The Assembly met at 401 p.m.
Hon Julian C. Dixon, Menber of the Assembly, 49 th District, presiding.

Chief Clerk James D Driscoll at the Desk,
Assistant Clerk Ray Monday readng
ROLL GALL
The roll was called, and the following answered to their names-76.


PRAYER
The following prayer was offered by the Chaplan, Father Leo McAllister:
Teach Us, Lard, To be patient It is difficult to remain sulent for so long while others seem never to cease talking Direct us to be patient with one another so that we may mantain the spirit of love and hopefulness Show us how to become peacemakers who joyfully bring happlness into the lives of others Show us how to esteem others and respect their right to an opinion or convetion which differs from ours Help us at all times to be joyful in sprit -AMEN

## pledge of allegiance to the flag

Upon request of Acting ${ }^{\text {Speaker Dixon, }} \mathrm{Mr}$ Tucker then led the Assembly in the pledge of allegiance to the Fiag
motion to dispense with reading of the journal
Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Briges, seconded by Mr Lews.

## LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, on personal business, and desired to wave their per diem:
Mr. Priolo, on request of Acting Speaker Dixon
Mr Montoya, on request of Acting Speaker Dixon
Mr. Vasconcellos, on request of Acting Speaker Dixon
BILLS PASBED ON FILE AND PLACED UPON THE INACTIVE FILE
Assembly Bill No. 4-Passed on file, and placed upon the inactive file pursuant to the Assembly Rules.

## REPORTS OF STANDING COMMITTEES <br> Committee on Ways and Means

Assembly Chamher. Angust 27, 1975
Mr. Speaker : Your Committee on Wars and Means ieports .
Assembly Bill No 2
With the recommendation : That the bull be re-referred to the Committee on Healtb.
FORAN, Charman
Above bill re-referred to the Committee on Health.

## ADJOURNMENT

At 4:02 p m., Acting Speaker Dixon declared the Assembly adjourned until 1 p.m., Friday, August 29, 1975.
LEO T. McCARTHY, Speaker
ANABEL FLEURY, Mmute Clerk

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAILY JOURNAL <br> FORTY-SEVENTH LEGISLATIVE DAY ONE HUNDRED THIRD CALENDAR DAY <br> IN ASSEMBLY

Assembly Chamber. Sacramento<br>Friday, August 29, 1975

The Assembly met at 850 pim
Hon Leo T MeCarthv, Speaker of the Assembly, presiding.
Chief Clerk James D Driscoll at the Desk.
Assistant Clerk Ray Monday reading
ROLL GALL
The roll was called. and the follow ung answered to their names-74:

| Alatore | Ciaren | Kessor | Papan |
| :---: | :---: | :---: | :---: |
| Antonoveh | conlen | Kıov | Petino |
| Ainett | Datis | Tancester | Rolph |
| Ibudham | 1 ledilph | Lanterman | Rolinson |
| Bane | Piton | Levis | Rusenthal |
| Bamat | Dut | Locher | Sieglet |
| Berman | Legehanil | Mitald | Steroty |
| Beverly | Fenton | MeAlister | Surt |
| Boatwight | Fornu | Mrlimuan | Thomas, Vincent |
| B1HK0 | (intumands | Mevitie | Thomath, Willidm |
| Brown | (iontim | Misade | 'Thuinill |
| Euske | ¢ 3 erme | Mallet | Toripa |
| Calva | Ginaleo | Moliley | Tucher' |
| Cunapbell | Hat | SIontbsa | Viceneia |
| Chacon | Havden | Miors | Wurien |
| Chappie | Hughes | Manplay | Wılon |
| Chel | Yugals | Nomande | Wornum |
| Cline | Kipmlot | Nimmo | Mr spenker |
| Collier | Kepne |  |  |

Quorum present.

## PRAYER

Upon invitation of Speaker pro Tempore Tapan, the following prayer was offered by Hon Curtis R Tucker. Member, j0th District:

Father in Henech. We are here to seme Help us as servants to be open to Your will and to the need of Your people.

We ask this m Your Name.-AMEN.

## pledge of allegiance to the flag

Upon request of Speaker MeCarthy, Mr. Vicencia then led the Assembly in the pledge of allegiance to the Flag

## MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mrs Hughes, seconded by Mr. Kapiloff.

LEAVES OF ABSENCE FOR THE DAY
The following Member was granted leave of absence for the day, because of illness:

Mr. MacDonald, on request of Speaker pro Tempore Papan.
The following Members were granted leaves of absence for the day, on personal business, and desared to wave their per diem:

Mr. Carpenter, on request of Speaker pro Tempore Papan.
Mr. Chimbole, on request of Speaker pro Tempore Papan.
Mr. Priolo, on request of Speaker pro Tempore Papan.
Mr. Vasconcellos, on request of Speaker pro Tempore Papan.
AUTHOR'S AMENOMENTS
Committee on Finance, Insurance, and Commerce
Assembli Chamber, Aufinst 29, 1975
Mr Speaker: The Chanman of your Committee on Finance, Insurance, and Commerce reports

Senate Bull No 4
With anthor's amendments with the recommendation. Amend, and re-refer to the Commitref on Finance, Inmance. ind Commeice

Senate Bill No. 4-An act to add and repeal Section 11.587 to the Insurance Code, relating to medical molpractice msurance, and declaring the urgency thereof, to take effect immediately.

Bill read second time.

## Consideration of Author's Amendmenta

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted :

## Amendment 1

In line 1 of the title of the printed bill, as amended in Senate August 21, 1975, strike out "add and repeal Section 11587 to'", and insert 'amend Section 4040 of, and to add Scetions 1085 , 1858.05, and 1858.15 to,".

## Amendment 2

On page 2, strike out line 1. and insert
"SECTION 1 Section 1085 is added to Insnrance Code, to read-
1085 "Medical malpractice insurance" means insurance coverage aghanst the legal lability of the msured and agamst loss, damare, or expense medent to a clam arising out of the death or injury of any person as the result of negligence or malpractice in rendering professional services by any person who holds a certificate or heense issued pursuant to Chapter 5 (conmencmg with Section 2000) of Division 2 of the Business and Professions Code, a heense issued pursuant to the

Osteopathic Initiative Act, or a license as a health facility pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code

SEC 2 Section 185805 is added to the Insurance Code, to read:
185805 Whenever a written complaint and request for hearing with the commissioner has been filed pursuant to Seetion 1858, and the complant concerns medical malpractice insurance, the commissioner shall within 30 days either by order deny the hearing or preceed as provided in Sections 18581 or 18582 The complamant may petition the court for an order to compel emmpliance with this section

SEC 3 Section 185815 is added to the Insurance Code, to read:
1858.15. Once commenced, an examination pursuant to Section 18581 shall be promptly conducted and concluded within a reasonable time. If the exammation is being conducted as the result of a written complaint and request for hearing filed pursuant to Section 1858, and the complaint concerns medical malpractice insurance, the complainant may petition the court for an order to compel complance with this section.

SEC 4 Section 4040 of the Insurance Code is amended to read :
4040. A mutual insurer may borrow money to defray the expenses of its organization, provide it with surplus funds, or for any purpose of its busimess, upon a written agreement that such money is required to be repaid only out of the insurer's surplus in excess of that stipulated in such agreement The agreement may provide for interest not exceeding either 6 percent per annum, or the maximum interest rate permitted by the Federal Reserve Bank, whichever is the higher rate, on sungle maturity time deposits in the amonnt of one hundred thousand dollars ( $\$ 100,000$ ) and over, running one vear or more, which juterest shall or shall not constitute a liablity of the insurer as to its funds other than as such excess as stipulated in the agreement Writent eqremente
 that expense shall be paid in connection with any such loan."

## Amendment 3

On page 2 , strike out lines 2 through 22 , inclusive; and on page 3 , strike out lines 1 through 33, inclusive.

## Amendment 4

On page 3, line 34, strike out "SEC. 3 ", and insert
"SEC. 5".

## Amondment 5

On page 3, strike out lines 39 and 40 ; and strike out page 4 , and insert
"There has been grave concern as to the validity of premiums charged for medical malpractice insurance Due to high premums, doctors have and will withhold their services, to the detriment of the public at large In order to facilitate the expeditoos review of medical malpractice insurance premums as soon as possible, thereby providing reluef to doctors and the public at large, it is necessary that this act take effect mmediately "

Bill ordered reprinted, and to be re-referred to the Committee on Finance, Insurance, and Commerce.

## AUTHOR'S AMENDMENTS

Committee on Judtciary
Aswembly Chamher, Auguct 29, 1975
Mr Spenker : The Chamman of jour Committee on Juheiar reports:
Senute Bill No 1
With author's amendinents with the recommendation Aniend, and re-iefer, to the Commattee on Juduenarg.

Milisen, ('hairman
Senate Bill No. 1-An aet to amend Sections 125 5, 2100, 2101, 2116, 2119, 2361, 2362, 2364, $23725,2436,2454,2456$, and 2458 of, to add Sections 2100.5, $21006,21007,21008,21015,21016,21017,2122$, 2372, and 23721 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Article 23 (commencing with Section 2123) and Artucle 24 (commenemg with Section 21946) to Chapter 5 of Division 2 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 23 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Profersions Code, to amend Section 43.8 of, and to add Article 5 (commencing with Section 3362 ) to Chapter 2 of Title 2 of Part 1 of Division 4 of, the Civil Code, to repeal and add Section 3405 of, and to add Chipter 5 (commencing with Section 364) to Title 2 of Part 2 of the Code of Civil Procedure, to add Section 1159 to the Evidence Code, to add and repeal Section 11587 of, and to add Section 11917 to, and to add Chrpter 55 (commencing with Section 11920) to Part 3 of Division 2 of, the Insurance Code, relating to malpractice.

Bill read second time.

## Consideration af Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

## Amendment 1

On page 10, line 27, of the printed bill, as amended in Assembly August 26, 1975, after " 2383 ", strike out the comma and insert a period.

Amendment 2
On page 10, strike out line 28.
Amendment 2.5
On page 10, line 34, after "services", insert a period.

## Amendment 3

On page 10, line 34, strike out '", pursuant to the'; and in line 35 , strike out "reportmg requirements of Section 801 or 802 ;'.

## Amendment 4

On page 10, line 37, strike out ", pursuant to subdivision (b) of this section;'", and insert a period.

## Amendment 5

On page 10, line 38, strike out "reported pursuant to Section"; and in line 39 , strike out ' 805 '.

## Amendment 6

On page 12, line 25, after "elam"', insert "or who js so insured but makes a settlement or pays an arbitration award without reporting the same to his insurer'.

## Amendment 6.5

On page 13, line 23 , strike out "; provided that, where the judge who'; and strike out hues 24 to 27 , melusive and insert a period.

## Amendment 7

On page 38, line 22, after " $a$ ", insert ' vested".

## Amendment 8

On page 38, lines 22 and 23, after "future", strike out ", either contingent or vested'".

Amendment 9
On page 39 , line 14, after "of", insert 'past, present and future".
Amendment 10
On page 39, lines 15 and 16, strike out "earnings after payment of state and federal income tares", and insert "earning capacity, less state and federal income taxes due from such earning capacity,".

## Amendment 10.5

On page 39, line 27, strike out "payment of such periodic"; and strike out hnes 28 and 29 , and insert "award equals or exceeds two hundred thousand dollars ( $\$ 200,000$ )."

## Amendment 11

On page 41, strike out lines 6 to 27 , melusive.

## Amendment 12

On page 41, strike out lines 36 to 40 , inclusive; and on page 42 , strike out lines 1 to 14 , inclucive, and insert
"(1) Forty percent of the first fifty thousand dollars ( $\$ 50,000$ ) recovered.
(2) Thirty-three and one-third pereent of the next fifty thousand dollars ( $\$ 50,000$ ) recovered
(3) Twenty-five percent of the next one hundred thousand dollars ( $\$ 100,000$ ) recovered
(4) If the recovery exceeds two hundred thousand dollars (\$200,000 ), the court shall set reasonable attorney's fees for such excess."

## Amendment 13

On page 44, between lines 22 and 23 , insert
" 365 Falure to comply with this chapter shall not invalidate any proceedings of any court of this state, nor shall it affect the jurisdiction of the court to render a judpment therem However, fallure to comply with suet provisions by any attorney at lew shall be grounds for professional dispipline and the State Bar of Califorma shall mvestigate and take approprate action m any such casps brought to its attention."

## Amendment 14

On page 45, line 21, after the period, insert "The commissioner shall give notice of such hearing at lenst five das s pror to the hearmg to the Board of Medical Quality Assurance "

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

## REPORTS OF STANDING COMMITTEES <br> Commitiee on Judiciary

A tuatmbly Chamber. Augirst 28. 1075
Ar. Speaker. Your Comnuttee on Juhenis rejorts.
Seuate Bill No 7
With ameniments with the reonompmation Amend, and if-refer to the Committee on Judiciars.
MII.ILER. Chairnum

## REQUEST FOR UNANIMOUS CONSENT TO TAKE UP SENATE BILL NO. 7

Mr. Miller was granted unanimous consent to take up Senate Bill No. 7, without reference to file, for the purpose of reading the bill a second time and adopting the committee amendments at this time

Second Reading of Benate Bill No. 7 by Unanimous Consent
Bonate Bill No. 7-An act to amend Sections 195. $\overline{5}, 2100,2101,2116$, 2119, 2361, $23615,2362,2364,23725,2436.24 \overline{5} 4,2456$, and 2458 of, to add Sections $21005,21006,21007.21008,21015,21016.2122$, 2361.3, 2372, and 23721 to, to add Article 11 (commencuig with Section 800) to Chapter 1 of Division 2 of, to add Artele 23 (commenc. ing with Section 2123) and Artucle 94 (commencing with Section 2124,5 ) to Chapter 5 of Division 2 of, to add Article 85 (commeneing with Section 6146) to Chapter 4 of Divinon 3 of, to repeal Section 2372 of, to repeal Article 11 (commencing wath Sicetwon 800 ) of Chanter 1 of Division 2 of, and to repeal Artiele 23 (commensemg with Section 2123) of Chapter $\overline{5}$ of Division 2 of. the Busmess and 1rofessions Code; to amend Section 43.8 of and to add Section 33331 to the Civil Code; to amend Sections 340.5 and 10945 , of and to add Section 667.7 to, the Code of Civil l'rovedure, to add Division 17 (commeneing with Section 21005 ) to the Health and Safety ('ode; and to add Sections 11587 and 11588 to the Insurance ('ode, relating to health.

Bill read second time.
Consideration of Committee Amendments
The following amendments, proposed by the ('ommitter on Judiciary, were read, and adopted:

## Amendment 1

In line 15 of the title of the printed bill, as amended in Assembly August 26, 1975, strike out "Section 667.7", and usert "Sections 667.7 and 674.7'.

## Amendment 2

On page 9 , line 36 , after "elaim", insert "or who is so insured but makes a settlement or pays an arbitration award without reporting the same to his insurer"'.

## Amendment 3

On page 29, strike out lines 32 and 33 , and insert
"(4) If the recovery exceeds two hundred thousand dollars (\$200,000 ), the court shall set reasonable attorney's fees for such excess."

## Amendment 4

On page 33, line 20, strike out "payment of", strike out lines 21 and 22 ; and in line 23 , strike out "award", and insert "award equals or exceeds two hundred thousand dollars ( $\$ 200,000$ ) in future damages".

## Amendment 5

On page 33, line 27, after the period, insert "As a condition of authorizing periodic payments of future damages, the court shall require the judgment debtor who is not adequately insured to post security adequate to assure full payment of such damages awarded by the judgment Upon termination of periodic payments of future damages, the court shall order the return of this security, or so much as remains, to the judgment debtor."

## Amendment 6

On page 33, line 28, after " (b) '", insert " (1)".
Amendmont 7
On page 33, between lines 35 and 36 , insert
"(2) In the event that the court finds that the judgment debtor has exhbited a contmuing pattern of falmy to make the payments, as specified in paragraph (1), the court shall find the judgment debtor in contempt of court and, in addition to the required periodic payments, shall order the judgment debtor to pay the judgment creditor all damages caused by the fililure to make such periodic payments, including court costs and attorney's fees "

## Amandment 8

On page 35 , between lines 8 and 9 , insert
"SEC 263 Section 6747 is added to the Code of Civil Procedure, to read:

6747 A certafied copy of any judgment or order of the superior court of this state issued pursuant to Section 667 7, when recorded with the recorder of any county, shall from such recording become a lien upon all real property of the judgment debtor, not exempt from execution, m such county, owned by him at the time, or which he may afterwards and before the hen expures, acquire, for the respective amounts and mastallments as they mature (but shall not become a lien
for any sum or sums prior to the date they severally become due and payable) which liens shall have, to the extent herem provided and for the period of 10 years from such recording, the same force, effect and priority as the lien created by recordation of an abstract of a money judgment pursuant to Section 674.

The certificate of the judgment debtor, certified by him under penalty of perjury, that all amounts and mstallments which have matured under said judgment prior to the date of such certificate have been fully paid and satisfied shall, when acknowledged and recorded, be prima facie evidence of such payment and sutasfaction and conclusive in favor of any person dealing in good fath and for a valuable consideration with the judgment debtor or his successors in interest.

Whenever a certified copy of any judgment or order of the superior court issued pursuant to Section 6677 has been recorded with the recorder of any county, the expiration or satisfaction thereof made in the manner of an acknowledgment of a conveyance of real property may be recorded."

## Amendment 8.5

On page 38, lines 28 and 29, strike out "the California Arbitration Commission on Medical Injury Compensation", and msert "arbitration".

## Amendment 9

On page 41, between lines 9 and 10 , insert
"SEC. 27.7. The provisions of this act shall not apply to any cause of action for professional negligence for wheh a complant is filed prior to the effective date of this act "

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

## ADJOURNMENT

At $3: 52$ p.m, Speaker MeCarthy declared the Assembly adjourned until 11 a.m., Tuesday, September 2, 1975.
LEO T. McOARTHY, Speaker
aNABEL FLELRY, Minute Clerk

## CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAIIY JOURNAL

# FORTY-EIGHTH LEGISLATIVE DAY one hundred seventh calendar day <br> <br> IN ASSEMBLY 

 <br> <br> IN ASSEMBLY}

Assembly Chamber, Sacramento
Tuesddr, September 2, 1975
The Assembly met at 415 pm
Hon Julan C Dixon, Member of the Assemble, 40th District, presiding

Chaef Clerk James D Driveoll at the Desk
Assistant Clerk Ray Monday reatimg.
ROLL CALL
The roll was called, and the folloning answered to their names- 76 .

| Alatorre | Collier | Krane | Nimimo |
| :---: | :---: | :---: | :---: |
| Antunovich | Cramen | Fus unt |  |
| dituett | Cullen | Fum | Pellio |
| Pdilham | Dovis | Ladicater | Rily ${ }^{\text {d }}$ |
| Bnue | Derldeh | L, int ${ }^{\text {aman }}$ | Rolpinvon |
| Kumbil | 1) | Leruss | Ramentbal |
| Berman | $\mathrm{J}_{1} \mathrm{ff}_{3}$ | Jomknar | Stuplor |
| Belurly | 1.griand | Mac1 Poubld | Sitiota |
| Bontwight. | Friton | Marlis | Surtt |
| Buggs | Folan | 1ft Alinter | Thromat, Willians |
| Hrossa | Galiamendi | Meldemutu | '19mandu |
| Burke | (rogran | Mclitte | Tonle |
| Cuko | Giperise | Mesule | Timber |
| Crmpleall | Giunleo | Miller | Vivcribucrllos |
| ('hacon | Hart | Medilet | Vterinill |
| Clappre | Habtien | 3 Loutisa | Willey |
| Chel | Inghes | Mon! | Wrison |
| Chumbole | Ingalls | YLut ${ }^{\text {hay }}$ | Woinum |
| Gline | Kıphlut | Nerraude | Mr. Nueaker |

## PRAYER

The following prayer was offered by the Chaplain, Father Leo Mc. Allister:

God, Our Father, By virtue of the talents You have given us and by reason of the circumstances of our mdividual lives, You have called upon each one of us to make our contribution to the world It may be little or it may be great. It doesn't matter. What does matter is that we do make it and for the right reasou.
Help us, Father, to achieve this essence of living -AMEN.

## pledge of allegiance to the flag

Upon request of Acting Speaker Dixon, Mr Beverly then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DIBPENSE WITH READING OF THE JOURNAL
Further reading of the Journal of the prevous legrslative day was dispensed with on motion of Mr. Miller, seconded by Mr. Siegler.

## LEAVES OF ABSENCE FOR THE DAY

The following Mpmbers were granted leaves of absence for the day, on personal business, and destred to waive their per diem :

Mr. Carpenter, on request of Acting Speaker Dixon.
Mr. Priolo, on request of Acting Speaker Dixon
Mr. Vincent Thomas, on request of Acting Spaiker Dixon.

## MESSAGES FROM THE SENATE

Seunte Chamber. Septemher 2, 107:
Mr. Speaker: I am directel to finform gour homorable bods that the Senate amended, and on thas day pussed as amended:

- Assembly Bill No 1

And respectfully requeste jour honorable boily to concur mand amendments.
DARRYI, IE WHITE, Hecietal of the Seunte
Bs Julan W. Rowane, ('huf Amostant Seceptars
Above bill ordered to unfinished business file.
ADJOURNMENT
At 4:16 p.m., Acting Speaker Dixon declared the Assembly adjourned until 10:30 a.m., Wednesday, September 3, 1975

LEO T. McCARTHY, Speaker
anabel fleliry, Minute Clerk

## CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAIIY JOURNAL <br> FORTY-NINTH LEGISLATIVE DAY <br> ONE HUNDRED EIGHTH CALENDAR DAY <br> IN ASSEMBLT

Assembly Chamber, Sacramento
Wednesday, September 3, 1975
The Assembly met at $4: 40 \mathrm{p} . \mathrm{m}$.
Hon Louis J. Papan, Speaker pro Tempore of the Assembly, presiding

Chief Clerk James D Driscoll at the Desk.
Assistant Clerk Ray Monday réading.

## ROLL CALL

The roll was called, and the following answered to their names-79:

| Alatorre | Collier | Keysor | Perino |
| :---: | :---: | :---: | :---: |
| Antonovich | Craven | Knox | Priolo |
| Arnett | Cullen | Lamenster | IRalpla |
| Rutham | Das | Lanterman | Foblinson |
| Bane | Derliteh | Lewis | Roxeuthal |
| Babnat | Ih八ov | Luckser | Stugler |
| Berman | Dufy | MacInouald | Sieroty |
| Beserly | Egeland | Madis | Sintt |
| Boatwright | Fenton | Mcalster | Thoman, Fincent |
| Briges | Foran | McIrnnan | Thomuts. William |
| Brown | Garameudt | Mevithe | Thurnasu |
| Burse | Gogrin | aleate | Torres |
| Calio | Greene | Miller | Tucker |
| Crmplell | Gualco | Mubley | Vhacrucellos |
| Carpenter | Hart | Montova | Vicencia |
| Chacon | Hasilen | Mori | Wirrea |
| Chappre | Hinghes | Murphy | Wilsm |
| Chel | Iugalis | Nertamie | Nornum |
| Chimhole | Kapmofir | Nimmo | Mr. Spenker |
| Cline | Kpeae | Рпраи |  |

Quorum present.

## PRAYER

The following prayer was offered by the Chnolain, Father Leo Mc-Allister-

Father, You watch over us and prowde us with leadership We acknowledge our need for help in this age of renewal Please grude us in our decisions so that no ones need may be overlooked on subordsnated Make our leaders open to new idens and new strategies but above all keep them open and responsive to the need, of the powerless in our state and country - AMEN.

## pledge of allegiance to the flag

Upon request of Speaker pro Tempore Papan, Mr Keysor then led the Assembly in the pledge of allegrance to the Flag

## READING OF THE JOURNAL DISPENSED WITH

By unanimous consent, readng of the Journd of the previous legislative day was dispensed with

## ADJOURNMENT

At 441 pm , Speaker pro Tempore Papan declared the Assembly adjourned unthl 10.30 am , Thursday, September 4, 1975.

LEO T. MeCARTHY, Speaker
ANABEL FLELRY, Mmute Clerk

## CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBIY DAIIY JOURNAL

## FIFTIETH LEGISLATIVE DAY ONE HUNDRED NINTH CALENDAR DAY

IN Assencit

Assembly Chamber, Sacramento
Thursday, September 4, 1975
The Assembly met at 3.21 pm .
Hon Leo T McCarthy, Speaker of the Assembly, presiding.
Chief Clerk James D. Driscoll at the Desk.
Assistant Clerk Ray Monday reading.
ROLL CALL
The roll was called, and the following answered to their names-78:

| Alatorre | Craven | Knux | Perıno |
| :---: | :---: | :---: | :---: |
| Antonosicl | Culleu | Lancaster | Priolo |
| Arnett | Davis | Lanterman | Ralph |
| Bane | Deddeh | Lewis | Robineon |
| Bannai | Dixan | Lackjer | Rosenthal |
| Berman | Duff | MacDonald | Niegler |
| Heverly | Egeland | Mindel | Sieroty |
| Bqatwright | Fenton | Mcalister | Suitt |
| Brages | Forail | MeLannan | Thomas, Yincent |
| Brown | Garamendi | MeVitie | Themas, William |
| Burte | Gogeia | Meade | Thurman |
| Calvo | Greene | Milter | Torres |
| Campbell | Gualco | Mobley | Tucker |
| Carpenter | Hart | Mintosa | Vrsconcellos |
| Chacon | Has den | Mori | Vicencia |
| Chappre | Hughes | Murnhy | Warren |
| Chel | Ingalls | Nestande | Waleou |
| Chambole | Kapiofer | Nimmo | Wornum |
| Cline | Kpene | Papan | Mr. Speaker |
| Collier | Kes sor |  |  |

Quorum present,

## PRAYER

The following prayer was offered by the Chaplain, Father Leo McAlinster:

Father, We stand now in time, in this world which is yet unfinished, far from realang the dream You have for man We hope and trust in You, that Your kingdom, Your city of promise is even now becoming real on this earth Let us not be discouraged by man's failures for there are also many successes Give each of us the courage and the enthusiasm to use each talent and explore every path in the bullding of this kingdom.-AMEN.

## pledge of allegiance to the flag

Upon request of Speaker McCarthy, Mr. Maddy then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL
Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. MacDonald, seconded by Mr Foran.

LEAVES OF ABSENCE FOR THE DAY
The following Member was granted leave of absence for the day, on personal business, and desired to waive his per diem:

Mr. Badham, on request of Speaker McCarthy.

NOTE : For letter explaining the absence of Mr Badham on thas day on personal business, see Assembly Daily Journal for the regular sesion for this day.

REPORTS OF STANDING COMMITTEES
Committee on Judiciary
Assembly Chamber, September 3, 1975
Mr. Speaker : Your Committee on Judiciary reports:
Senate Bill No. 1
Senate Bill No. 7
With amendments with the recommendation : Amend, and re-refer to the Committee on Judiciary-

MIILIERR, Cbairman
Above bill ordered to second reading.

## REQUEST FOR UNANIMOUS CONSENT TO TAKE UP SENATE BILLS NOS. 1 AND 7

Mr, Miller was granted unamimous cousent to take up Senate Bills Nos. 1 and 7, withaut reference to file, for the purpose of resding the bills a second time and adopting the conmittee amendments at this time.

## Gecond Reading of Bille by Unanimoun Consent

Senate Bill No. 1-An art to amend Spetions 125 5, 2100, 2101, 2116, $2119,2361,2369,2364,23795,2436,2454,2456$, and 2458 of, to add Sections 2100 J, 21006, 2100.7. 21008, 21015, 21016, 21017, 2122, 2372 , and 23721 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Divison 2 of, to add Article 23 (eommencing with Section 2123) and Artuele 24 (commeneing with Section 212t6) to Chapter 5 of Division 2 of, to repeal Section $2: 3$ in of, to repeal Article 11 (commenemg with Section 800) of ('hapter 1 of Drvision 2 of, and to reperl Article 23 (commencing with Section 2123) of Chapter 5 of Duvision 2 of, the Business and Profersions Cude, to amend Section 43.8 of, and to add Artele 5 (commencing with Section 3362) to Chapter 2 of Title 2 of Part 1 of Division 4 of, the Civil Code, to repeal and add Section 3403 of, and to add Chapter 5 (commencing with Section 364) to Title 2 of Part 2 of the Code of Cwil Procedure, to add Section 1159 to the Evidence Code. to add and repenl Section 11587 of, and to ald Section 11917 to, and to add C'hapter 55 (commencing with Section 11920) to Part 3 of Division 2 of, the Insurance Code, relating to malpractice.

Bill read second time.
Considaration of Committee Amendmenta
The following amendments. proposed by the Committee on Judiciary, were read, and adopted:

## Amendment 1

In line 17 of the title of the printed bilt, as amended in Assembly August 29, 1975, strike out "to add and repeal Scetion 11.587 of, and".

Amendment 2
In line 18 of the title, strike out "and".

## Amendment 3

In line 19 of the title, after the comma, insert "mand to add Division 5 (commenerng with Section 14000 ) to, ${ }^{\prime \prime}$.

Amendment 4
On page 41, strike out hases 11 to 40 , inclusive, strike out page 42 ; and on page 43 , strike out lines 1 to $\bar{T}$, melusive.

## Amendment 5

On page 43 , line 8 , strike out " $\operatorname{SEC}$ ' 9 ', and insert
"SEC. 8".

## Amendment 6

On page 43, lme 27. strike out " SEC ( 10 ', and insert
" SEC .9 ".

## Amendment 7

On page 56 . between lines 16 and 17 , msert
"SEC 10. Division 5 (commenceng with Section 14000) is added to the Insurance Code, to read:

## DIVISION 5. PROFESSIONAI HIABILITY INSURANCE FOR HEALTH CARE PROVIDERS

14000 (a) No professional hability insuranee for persons lawfully engaged in the practice of medicine or osteopathy, health plans, and partnerships or corporations lawfully engaged in the operation of hospitals, sanitariums, elinics or other health eare facilities, shall be issued or renewed at rates which exceed reasonable rate levels for the insurance provided as established by the Insurance Commissioner Sueh rate levels shall be established annually by the commissioner on or before December 31 for application to the succeeding calendar year
(b) The Insurance Commissioner shall conduct public hearings prior to the establishment of such rates. The hearings shall be conducted pursuant to Chapter 5 (eommencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
(c) Violations by any liablity insurance carrier of the provisions of this section shall be cause for immediate suspension or termination of the carrier's authority to offer or transact insurance in this state In addition, fallure by any carrier to comply with the provisions of this section is a public offense pumshable by a fine of not less than five thousand dollars ( $\$ 5,000$ ) or more than fifty thousand dollars ( $\$ 50,000$ ). Knowing and intentional failure to comply with the provisions of this section, or conspiracy or collusion not to comply with the provisions of this section, or to hinder or impede any other person in such compliance is a public offense punishable by a fine of not less than fifty thousand dollars ( $\$ 50,000$ ) nor more than five hundred thousand dollars ( $\$ 500,000$ ).
14001. (a) The Insurance Commissioner may, after a public hearing conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, find that, on a county-by-county basis, essential health care services are unavailable or may imminently become unavailable to a significant number of persons residing $m$ such county due to the unavailability of professional lability insurance.
(b) Where the commissioner reaehes a finding pursuant to subdivision (a) he may order insurers heensed or authorized to transact, and engaged in transactong withon this state on a direct bdsis, liability insurance, to provide professional lability msurance on an emergency basis for a period not to exceed one year at rates established pursuant to Section 14000. The commissioner shall assign underwriting responsibilities to mdividual carriers on a formuld approximating each earrier's proportion of total liability insurance underwriting in the state and which he deems fair and equitable.
14002. In no even shall the total brokerage fep or fees, including reinsurance brokerage fees and rebates, for obtainug professional hability insurance for persons lawfully engaged in the practuee of medicine or osteopathy, health plans, and partnerships or corporations lawfully engaged in the operation of hospitals, santariums, clinies or other health care facilities, exceed 5 percent of the gross premum in aggregate on any such insurance policy "
Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

Senate Bill No. 7-An act to amend Sections 1255, 2100, 2101, 2116, 2119, 2361, $23615,2362,2364.23795 .2436,2454,2456$, and 2458 of, to add Sections $21005,21006,21007,21008,21015,21016,2122$, 2361 3, 2372, and 2372 I to, to add Artulle 11 (eommenemg with Section 800) to Chapter 1 of Division 2 of. to add Article 23 (commencing with Section 2123) and Article 24 (commenemg with Section 21245 ) to ('hapter 5 of Division 2 of, to add Artucle 85 (commencmg with Section 6146) to Chapter 4 of Division 3 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Seetion 800) of Chapter 1 of Division 2 of, aud to repersl Article 23 (eommeneng with Section 2123) of (Thapter 5 of Division 2 of, the Business and Professions Code; to amend Section 438 of, and to add Section 3333.1 to the Civil Code; to amend Sections 3405 and 10945 , of and to add Sections 6677 and 674.7 to, the Code of Civil Procedure, to add Division 17 (commencing with Section 21005) to the Health and Safety Code, and to add Sections 11587 and 11588 to the Insurance Code, relating to health

Bill read second time.
Conalderation of Committes Amendments
The following amendments, proposed by the Committee on Judiciary, were read, and adopted:

## Amendment 1

In line 17 of the title of the printed bill, as amended in Assembly August 29, 1975, strike out "Sections 11587 and", and insert "Section'".

## Amendment 2

In line 18 of the title. after the first "to", insert ", and to add Division 5 (commencing with Section 14000) to,'".

Amendment 3
On page 41 , strike out lines 2 to 40 , inclusive; and on page 42 , strike lines 1 to 14 , inclusive.

## Amendment 4

On page 42 , line 15 , strike out " 275 ', and insert " 27 '".

## Amendment 5

On page 42, between lmes 30 and 31 , insert
"SEC 27.5 Division 5 (commencing with Section 14000) is added to the Insurance Code, to read -

## DIVISION 5. PROFESSIONAL LIABILITY INSURANCE FOR HEALTH CARE PROVIDERS

14000 (a) No professional liability insurance for persons lawfully engaged in the practice of medicme or osteopathy, health plans, and partnerships or corporations lawfully engaged in the operation of hospitals, samitariums, chmes or other health care facilities, shall be issued or renewed at rates which exceed reasonable rate levels for the insurance provided as established by the Insurance Commussioner. Such rate levels shall be established annually by the commissioner ous or before December 31 for application to the sueceeding calendar year.
(b) The Insurance Commissioner shall conduct public hearings prior to the establishment of such rates. The hearings shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code
(c) Violations by any liability insurance carrier of the provisions of this section shall be canse for immedate suspension or termination of the carrier's authority to offer or transact insurance in this state In addition, failure by any carrier to comply with the provisions of this section is a publie offense punishable by a fine of not less than five thousand dollars ( $\$ 5,000$ ) or more than fifty thousand dollars ( $\$ 50$,000 ). Knowing and intentional failure to comply with the provisions of this section, or conspiracy or collusion not to comply with the provisions of this section, or to hinder or impede any other person in such comphance is a public offense punishable by a fine of not less than fifty thousand dollars ( $\$ 50,000$ ) nor more than five hundred thousand dollars ( $\$ 500,000$ ).
14001. (a) The Insurance Commissioner may, after a public hearing 'eonducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, find that, on a county-by-county basis, essential health care services are unavailable or may mminently become unavailable to a significant number of persons residing in such county due to the unavalability of professional liablity insurance.
(b) Where the commissioner reaches a finding pursuant to subdi, vision (a), he may order insurers heensed or authorized to transact, and engaged in transacting within this state on a direct basis, liability insurance, to provide professional liability insurance on an emergency basis for a period not to exceed one year at rates established pursuant to Section 14000 The commissioner shall assign underwriting responsibilities to individual carriers on a formula approximating each carrier's proportion of total liability insurance underwriting in the state and which he deems fair and equitable.
14002. In no event shall the total brokerage fee or fees, including reinsurance brokerage fees and rebates, for obtaining professional liability insurance for persons lawfully engaged in the practice of medicine or osteopathy, health plans, and partnerships or corporations lawfully engaged in the operation of hospitals, sanitariums, elinies or other health care facilities, exceed 5 percent of the gross premiun in aggregate on any such insurance policy."

Bll ordered reprinted, and to be re-referred to the Committee on Judiciary.

## Speaker pro Tempore Presiding

At 4.24 pm , Hon Louis J. Papan, 19th District, presiding. JOINT RULE 62(n) WAIVED
Mr. Miller was granted unammous consent that Joint Rule 62(a) be waived for the purpose of setting Senate Bills Nos. 1 and 7 for hearing in the Committee on Judiciary at 4.30 pm , on Monday, September 8, 1975.

## ADJOURNMENT

At 4.25 pm , Speaker pro Tempore Papan declared the Assembly adjourned until 11 a m., Friday, September 5, 1975.

LEO T. McCARTHY, Speaker
aNABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAILY JOURNAL

# FIFTY-FIRST LEGISLATIVE DAY ONE HUNDRED TENTH CALENDAR DAY 

## IN ASSEMBLY

Assembly Chamber, Sacramento Friday, September 5, 1975
The Assembly met at 4:41 pm.
Hon Leo 'T. MeCarthy, Speaker of the Assembly, presiding. Chief Clerk James D Driseoll at the Desk.
Assistant Clerk Ray Monday reading.

## ROLL CALL

The roll was called, and the following answered to their names-79:

| Alatorre | Colher | Keysor | Perino |
| :---: | :---: | :---: | :---: |
| Antonovich | Craven | Knox | Priolo |
| Arnett | Cullen | Lancaster | Rulph |
| Badham | Davis | Lanterman | Rohinson |
| Bane | Deddeh | Lewns | Rocenthal |
| Bannal | Dixon | Lockyer | Suegler |
| Berman | Duty | MacDonald | Sieroty |
| Beverly | Egeland | Maddy | Sult |
| Boatwright | Fenton | Mralister | Thomas, Fincent |
| Bruges | Foran | McLemnan | Thomat, Willarim |
| Srown | Garameadi | McVittie | Thurman |
| Burke | Goggin | Meade | Torles |
| Calve | $G$ Geene | Miller | Tucker |
| Campbell | Gualco | Mobley | $V$ asconcellos |
| Carpenter | Hart | Montoya | Ficencia |
| Chacon | Hay den | Morı | Wallen |
| Chappie | Hughes | Murphy | Whison |
| Chel | Ingalls | Nestande | Wrornum |
| Chimbole | Kapiloft | Nimmo | Mr. Speaker |
| Cline | Keene | Prpan |  |

Quorum present.

## (8)

PRAYER
The following prayer was offered by the Chaplain, Father Leo McAllister:

God Our Father, On this historic day when we are honored by a visit by our President to our Capitol, we pray for him and all people in roles of leadership. Give them wisdom and dedication, concern and control. Give them a sense of truth and justice.

Help all of us who elect our leaders to constantly respect the offices they hold Help us also to demand from them performance commensurate with those offices We thank You for the blessings You have showered upon our land-AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG
Upon request of Speaker MeCarthy, Mr. Ralph then led the Assembly in the pledge of allegrance to the Flag.

READING OF THE JOURNAL DISPENSED WITH
By unanimous consent, reading of the Journal of the previous legislative day was dispensed with.

# REPORTS OF STANDING COMMITTEES <br> Committee on Finance, Insurance, and Commerce 

Assembly Chamher, September 4, 1975
Mr. Speaker ' Your Committee on Funace, Insuance, and Commerce reports : Senate Bill No 4
With amendments with the recominendation. Amend, do josss, as nmended. and be re-referied to the Commuttee on Wass and Means.

McALIISTER, Charman

## REQUEST FOR UNANIMOUS CONSENT TO TAKE UP SENATE BILL NO. 4

Mr. McAlister was granted unanmous consent to take up Senate Bill No 4, without reference to file, for the purpose of reading the blll a second time and adopting the committee amendments at this time.

Second Reading of Senate Bill No. 4 by Unanimous Consent
Senate Bll No. 4-An act to amend Section 4040 of, and to add Sections 1085,185805 , and 185815 to, the Insurance Code, relating to medical malpractice insurance, and declaring the urgency thereof, to take effect immediately.

Bill read second time.

The following amendments, proposed by the Committee on Finance, Insurance, and Commerce, were read, and adopted:

## Amendment 1

On page 4, line 20, of the printed bill, as amended in Assembly August 29, 1975, after the period, insert "Except with respect to a mutual insurer authorized to transact only medical malpractice insurance as defined by Section 108.5, written agreements evideneng such borrowed money shall not be issued in units of less than ten thousand dollars (\$10,000)."

Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means.

## ADJOURNMENT

At 442 pm . Spenker McCarthy declared the Assembly adjourned until 9.30 nm , Monday, September 8, 1975.

LEO T. McCARTHY, Speaker
aNABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

# ASSEMBLY DAILY JOURNAL <br> fifty-second legislative day one hundred thirteenth calendar day 

## IN ABSEMBLY

## Assembly Chamber, Sacramento

 Mondıy, September 8, 1975The Assembly met at 419 pm
Hon Leo T McCarthy, Speaker of the Assembly, prestdmg. Chief Clerk James D Driseoll at the Desk.
Assistant Clerk Ray Monday reading.
ROLL CALE
The roll was called, and the following answered to their names-79:

| Alatorre | Collier | Kepsor | Perino |
| :---: | :---: | :---: | :---: |
| Antompvich | Craven | Knov | Peiolo |
| Arneti | Cullen | Lajucaster | Ralih |
| Badham | Davis | Lunterman | Rolunson |
| Bane | Dedeleh | Lewnin | Rosenthal |
| Bandai | Dixon | Lochs er | Siserler |
| Berman | Dufy | Macl monald | Sileloty |
| Beverly | Wgeland | Madily | Sustt |
| Hoatwright | Fenton | MeAlister | Thomas, Vimeent |
| Briges | Foran | Melachtma | Thomis, Willam |
| Brown | Garamenti | Micittie | Thanman |
| Burke | Goggin | Maxule | Turres |
| Calio | Greene | Miller | T'uker |
| Campluelt | Gualeo | Moliley | Vireoncellos |
| Carpenter | Hurt | Misntoya | Viepmera |
| Chacon | Hasclen | Mari | Watren |
| Chapple | Hughes | Muphy | Wilson |
| Chel | Ingalls | Nestande | Wornmm |
| Chimbole | Kaynloff | Nimmo | Mr. Speaker |
| Cline | Keene | Propan |  |

Quorum present.

## PRAYER

The following prayer was offered by the Chaplan, Father Leo McAllister:

Father, Save us from despair in our daily encounter with the burden of existence Save us from exhaustmg ourselves in resenting rather than patıently decepting its darly handouts

Make us realuze that the mission of serrice to the cause of man, a mission given to the world to reduce its suffering and give it meaning, a mission to support men in distrass, is one which gives more than an average amount of suffering. Give us the streugth to aceept this AMEN

## PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker MeCarthy, Mr Nimmo then led the Assembly in the pledge of allegrance to the Flag.

## READING OF THE JOURNAL DIGPENSED WITH

By unanimous consent, reading of the Journal of the previous legislative day was dispensed with.

## CONSIDERATION OF DAILY FILE UNFINISHED BUSINESS CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 1 (Keene)-An act to amend Sections 125.5, 2100, 2101, 2116, 2119, 2361, 23615, 2362, 2364, 23725, 2436, 2454, 2456, and 2458 of, to add Sections $21002,2100.5 .21006, \because 1007.2100 .8$, $21015,21016,2122,2372$, and 23721 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Disision 2 of, to add Article 23 (commencing with Section 2123) and Artucle 24 (commencing with Section 21245 ) to Chapter 5 of Disision 2 of, to add Artucle 85 (commencing with Section 6146) to Chapter 4 of Division 3 of, to repeal Section 2372 of, to repeal Artrele 11 (commenemg with Section 800) of Chapter 1 of Drvision 2 of, and to reped Artule 23 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Busmess and Professwis Cade, to amend Section 438 of, and to add Sections 333.31 , and 33332 to the Civil Code, to amend Section 3405 and 1094.5 nf , to add Sections 6677 and 6747 to, and to add (hapter 5 (eommenemg with Section 364) to Title 2 of Part 2 of, and to add Title 9.1 (commeneng with Section 1295) to Part 3 of, the Code of ('mal Procedure, and to add Sections 11587 and 11588 to. the Inauramue Code, relating to health, and making an appropration therefor

The question being Shatl the Assembly concur in the following Senate amendments to Assembly Bill No 1*

Senate Amendmente of Juno 25, 1975
Set No. 1
Amendment 1
In line 3 of the heading of the printed bill, as amended in Assembly June 17, 1975, strike out "Goggin,'.

## Amendment 2

In line 5 of the title, after the second "of", insert ", to add Section 2015 to".

Amendment 3
In line 17 of the title, after the semicolon, insert "to add Section 1259 to the Health and Safety Code;'.

## Amendment 4

In line 17 of the title, after " 11588 to", insert ", and to add Chapter 5 (commencing with Section 11900) to Part 3 of Division 2 of,'.

## Amendment 5

On page 12, between lines 35 and 36 , insert
"SEC 27 Section 2015 is added to the Business and Professions Code, to read.

2015 Except as provided in Sections 119223 and 119225 of the Insurance Code, after a finding by the Director of Health pursuant to Section 11910 of the Insurance Code authorizing the issuance of medical malpractice msurance, as defined in subdivision (a) of Section 11900 of the Insurance Code, by the Califorma Medical Malpractice Underwriting Association to physselans, no person possessing a physicians and surgeon's certficate under this chapter and practicing in a county designated by the Director of Health shall purchase a policy of medical malpractice insurunce, as defined m subdivision (a) of Section 11900 of the Insurance Code, unless it is issued or is authorized to be issued by the California Medical Malpractice Underwriting Assoclation pursuant to Chapter 5 (commencing wath Section 11900) of Part 3 of Diviston 2 of the Insurance Code"

## Amendments 6-10

On page 30 , line 8 , after "board", insert ", or the Calffornia Medical Malpractice Underwritmg Association established purcuant to Chapter 5 (commencing with Section 11900) of Part 3 of Division 2 of the Insurance Code,".

## Amendment 11

On page 30 , line 12 , after the period, insert "The immunities afforded by thes section and by Section 437 shall not affect the avallability of amy absolute priviege wheh may be afforded by Section 47."

## Amendment 12

On page 31, line 14, strike out 'This time', strike out lines 15 to 20, inclusive, and insert "In the event that such person has failed to disclose any act. error or omssion upon whith such artion is based and wheh is known or through the use of rensonable diligenee should have been known to him, the time for the commencement of action shall be five years after the date of the mjury These time limitations shall be tolled for any peried durng wheh the plaintiff has not discovered, or through the use of reasonuble diligence would not have discovered the presemee of a forengu body in his person."

## Amendment 12.3

On page 32 , lme 29 , strike out "may", and insert "shall, at the request of either party, ".

## Amendment 12.6

On page 32, line 35, after "award", insert ", or if the award equals or exceeds one hundred thousand dollars ( $\$ 100,000$ )."

## Amendment 13

On page 33, line 2, strike out "to post security adequate to assure full"; strike out line 3, and msert "who is not adequately insured to post security adequate to assure full payment of such damages awarded by the judgment."

## Amendment 14

On page 33, line 4, after " (b)", insert " (1)".
Amendment 15
On page 33, line 10, strike out 'termination', and insert " modification".

## Amendment 16

On page 33, between lines 11 and 12 , insert
"(2) In the event that payment is not received as specified in subdivision (1) of this section, the judgment creditor may execute a declaration under penalty of perjury that payment has not been recesved Upon receipt, the judgment debtor shall issue subsequent payment withm three days to the judgment creditor
(3) When payment of compensation has been unreasonably delayed or refused either prior to or subsequent to the issuance of an award, the full amount of the order, decsion or award shall be noreased by 10 pereent The question of delay and reasonableness of the cause, therefore, shall be determmed by a superior court of competent jurisdiction in accordance with the facts Such delay or refusal shall constitute good cause to modify the award for the purpose of makng the merease provided for herem."

Amendmenta 17-18
On page 37, between lines 19 and 20 , insert
"SEC 26.6. Section 1259 is added to the Health and Safety Code, to read

1259 Except as provided in Sections 119223 and 119225 of the Insurance Code, after a finding by the Director of Health pursurnt to Section 119222 of the Insurance Code authorizing the ssuance of medical malpractice insurance, as defined in subdivision (a) of Section 11900 of the Insurance Code, by the Californa Medical Malpritetice Underwriting Associdion to health facilities, no health facilty located in a county designated by the Director of Health shall purchase a policy of such medical malpractice insurance unless the polocy is issued or is authorized to be issued by such association pursuant to Chapter 5 (eommencing with Section 11900) of Part 3 of Division 2 of the Iusurance Code

SEC 267 Chapter 5 (commencing with Section 11900) is added to Part 3 of Division 2 of the Insurance Code, to read:

## Chapter 5. Medical Malpractice Insurance

## Article 1. Definitions

11900 As used in this chapter:
(a) "Medical malpractice insurance" means insurance coverage aganst the legal liability of the msured, and against loss, damage, or expense inerdent to a clam arising out of the death or mjury of any person us the result of neglugence or malpractice in rendering professtonal services by a person possessing a physician's and surgeon's cer- , tificate, or, after a finding by the director pursuant to Seetion 11922.2, a health eare provider.
(b) "Assocuation" means the joint underwriting association (known as the California Medical Malpractice Underwriting Assoctation) established pursuant to the provisions of this ehapter.
(c) "Health care provider" means any person licensed pursuant to Division 2 (commencing with Section 500 ) of the Business and Professions Code, exeept Chapter 11 (commencing with Section 4800) thereof, or licensed pursuant to the Osteopathic Initative Act, any health facilty licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, and any blood brak licensed pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Health and Safety Code "Health care provider" includes the legal representative of a health care provider
(d) "Health fecility"' means any person, firm, partnershup, association, corporation, or politimal subdivision of the state, or other governmental ageney in this state licensed under Chapter 2 (commencing with Section 12.50) of Division 2 of the Health and Safety Code
(e) "Joint underwriting assorsation" means the association composed of all ussurers hicensed to transact and engaged in transarting within thas state on a direct basas, hability insurance, including insurers covering such perils in multiple-peril package pohcies
(f) "Net direct premiums" means gross direct premutms written on liability msurance in this state, including the liability component of multiple-peril package policies as determined by the commissioner, less return premums, dividends paid or credited to policyholders, and the surplus portions of the premium deposits.
(g) "Physscian" means any person possessing a physician's and surgeon's certificate issued pursuant to the State Medical Practice Act (Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code)
(h) "Director"' means the Director of Health.

## Artirle 2 Joint Underwriting Association

11910 (a) Withm 30 days after the effective date of this act, with the approval of the commissioner, all msurers licensed or authorized to transact, and engaged in transactang withm the state on a direct basis, liabblity marance, including msurers covering surh perils in multiple-peril package polycies shall establish the Califorman Medical Malpractice Underwriting Association to effectuate the purposes of this chapter Every such insurer shall be a member as a condition of its authority to contmue to transact hability insurance m this state.
(b) The director may, after a public hearing, find that, on a county-by-county basis, essential health care services are unavalable or may imminently become unavalable to a siguficant number of persons residing in such county.
(c) Any time after a finding by the director pursuant to subdivision (b), if the director determines, upon apphication of any interested party and after a public hearing, that the health care crisis has abated, that essential health care services are avalable and will probably remain available in the future, and that meducal malpractice msurance will become available through private insurers in any such county with respect to which he has previonsly made such a finding, he may order the association to cease its underwriting operations in such county

11911 The purpose of the assocration shall be to provide medical malpractice insurance m counties designated by the director to physicians and health care providers under this chapter on a self-supporting basis

11912 The association shall be governed by a board of 11 regents composed of six msuress or their authorized representatives, three physicians, and two puble representatives The six insurers shall be elected by cumulative votung by the members of the assoriation, whose votes in such election shall be weighted in accordance with each mensber's net direct premiums written during the preceding calendar year. One of the physicians and both public representatuves shall be appointed by the Governor The Speaker of the Assembly and the President pro Tempore of the Senate shall each appoint one physician Each regent shall be elected or appointed for an annual term expiring June 30 Vacancles may be filled by the director but a surcessor regent shall be appomted only for the remminder of the mexpmed term and from the same representative class as the regent replaced

11913 Withon 30 days after the effective date of this act. and during each month of June thereafter. all insurers subject to this chapter, or their authorized representatives, shall meet to eleet the six rezents who will represent the insurers on the board of regents The meetings shall be held at a tome and place designated by the commissioner and the commissioner shall preside over such meetings
11914. Within 30 days after the effective date of this aet. and during each month of June thereafter the Governor, the Spenker of the Assembly, and the President pro Tempore of the Senate shall announce their appointees to the board of regents

11915 Nothing in this chapter shall be construed to make the association an ageney or office of the state

## Article 3 Operation of the Association

11920 The association shall pursuant to the provisions of this chapter and the plan of operation promulgated under this article with respect to medical malpractife insurance, have the power on belialf of its members to do all of the following
(a) To issue, or to cause to be issued. directly or through service compames appointed by $1 t$, assessable policies of medical malpratice insurance to physicians, meluding meidental coverages and subject to
limits as specified in the plan of operation, but not to exceed one million dollars ( $\$ 1,000,000$ ) for each claimant under one policy and three mulhon dollars ( $\$ 3,000,000$ ) for all clamants under one policy in any one year
(b) To underwrite such insurance and to adjust and pay losses with respect thereto, or to appoint service companies to perform such functions
(c) To assume reinsurance from its members.
(d) To cede reinsurance

11921 (a) The commissioner shall, after consultation with members of the association, representatives of the public, the medical and legal professions, and other affected individuals and organizations, promulgate a plan of operation consistent with the provisions of this chapter, to become effective and operative not later than 60 days after the effective date of this act
(b) The plan of operation shall provide for the economic, fair, and nondiscrimmatory admimistration and for the prompt and efficient provision of meducal malpractice msurance to physicians and health care providers in this state, and shall contain other provisions, meluding but not hmited to preliminary assessment of all members for inital expenses necessary to commence operations, establishment of neceqsary facilities, management of the association, assessment of members to mantain solvener, commission arrangements, reasomable and objective underwriting standards, acceptance and cessoon of remsurance, appomtment of serviemg carriers, and procedures for determining amounts of insurance to be prowided by the association
(c) The plan of operation shall provide that any excess funds not needed by the asonciation for working capital, payment of claims, and surplus shall be added to the riserves of the association or returned to the policyholders as a divadend
(d) Amendments to the plan of operation may be made by the regents of the assocation. subjert to the approval of the commussioner, or shall be made at the direction of the commissioner.
(e) On a continumg basis. the commusioner and the association shall consult with the screenng committes of varnous connty medien societies for assistance m determming whether applirants, mdividully or collectavely, meet the underuriting standards of the association, as preseribed in the plan of operation
(f) Prom to the promulgetion of the plan of operation, the director may require the association man designated county to ssane, or cause to be issued through service companies, to any appleant, a poliey of medical malpractice insurance with coverage retroactive to the expiration date of the appliednt's medwal malpractie msurance poliey: prowded, however, that ald applieant whs msured with a poliey of meduea malpractiee incurame at any time withon two months prior to the effective date of this act but whose msurer has refused or declined to contune coverage Cpon payment of the premum establushed by the association. the asaciation shall issup or cause to be issued an interim policy of medieal malpratice mouranee to expire 90 days from the date of msue. Gpon termmation of the interm
policy, the association may renew the policy under the provisions of subdivision (b) of Section 11922.
11922 (a) Any physician practicing in a county designated by the director pursuant to subdivision (b) of Section 11910 shall, on or after the effective date of the plan of operation, or any health care provider practieng or located in a county designated by the director shall, after a finding by the director pursuant to Section 11922 2, be entitled to apply to the association for medical malpractice insurance coverage. Such application may be made on belalf of an applicant by a broker or agent authorzed by the applicant.
(b) If the association determines that the applicant meets the underwriting standards of the association, as prescribed in the plan of operation, then the association, upon receipt of the premuum, or such portion thereof as is preseribed in the plan of operation, shall cause to be issued to the physician or health care provider a policy of medical malpractice insurance for a term of one year.

119221 Except as provided in Sections 119223 and 119225 , on and after the effective date of the plan of operation, or, in the case of medical malpractice insurance for health facilities, after the amendment to the plan of operation pursuant to Section 11922 2, no policy of medical malpractice msurance insuring a physician or health fachlity shall be offered, sold, issued, or delivered in any county in this state designated by the director unless by or under the authority of the association pursuant to this chapter

119222 (a) The director may, after a public hearing, find that, on a county-by-county basis, essential health care services from health care providers are unavailable or may immmently become unavalable to a significant number of persons residang $m$ such county.
(b) After such a finding, the commissioner shall amend the plan of operation to require the association to issue or cause to be issued, directly or through service companies, assessable policies of medical malpractice msurance in designated counties to each of such types of health eare providers found to be in need of such msurguce, meluding incidental coverages and subject to lmits as sperified m the plan of operation, but not to exceed one million dollars ( $\$ 1,000,000$ ) for each clamant under one policy and three milhon dollars ( $\$ 3,000,000$ ) for all claimants under one policy in any one year
(c) After such a finding, the plan of operation shall be further amended, as necessary, by the commissioner or the association to enable the issuance of medical malpractice insurance to health care providers in a manner not inconsistent with the provisions of this chapter.
(d) At any time after a finding by the director pursuant to subdivision (a), if the director determmes, upon applecation of any interested party and after a public hearing, that the health care crisis has abated, that essential health care services are avalable and will probably remain available in the future, and that medeal malpractice insurance will become avalable through private msurers in any such county with respect to which he has previously made such a finding, he may order the asocation to cease its underwrting operations in such county with regard to each of the specific types of health care providers covered under the finding pursuant to subdivision (a) of this section.

119223 Nothing eontamed in this ehapter slall prohibit the offer. sale, issuance, defivery, or renewal of any policy of medical malpractice insurance.
(a) Which provides coverage only in excess of the maximum coverage offered by the association pursuant to the plan of operation
(b) To an applicant who has been denied medical malpractice insurance by the assoctation for failure to satisfy the underwriting standards of the association as preseribed in the plan of operation
(c) To a health faclite subsequent to a finding pursuant to subdivision (b) of Section 11910 but pror to a finding with respect to health facilities, pursuant to Sertion 11922 2, even if such policy of medical malpractice insurance includes coverage for labilites arnsing wathin the scope of employment for physicians employed by the health facility

119224 Except as provided in Section 11922 1. nothing contaned in this chapter shall affect the valdity of anv policy of medical malpractice insurance lawfully issued or delwered pror to the effective date of the plan of nperation. or in the rase of such msurance to health facilities, prior to the amendment to the plan of operation pursuant to Seption 119222
119225 (a) Nothing contaned in this chapter shall prohibit the renewal of any policy of medical malpractice incurance lawfully assued or delivered prior to the effective date of the plan of operation, or, in the case of such msuranpe to hedith farilities, prior to the amendment to the plan of operation pursuant to Sretion 119222, provided, however. that immedutely after sald renewal, the insurer will msure and contunue to insure an approximately representative sample of rating clasufications so that no substantial adverse selection agamst the association will result
(b) In order to insure compliance with subdivasion (a), the commissoner shall be entitled to mepect at any time a list of each insurer's insureds. grouped aceordmg to their ratmg classifieations

11923 (r) The rates, rating plans, rating rules rating classifications, territories and poliey forms applicathle to the mouranee written by the assomation muder thas ehapter and atatistios relatime thereto shall be subject to the provisons of Chapter ? (commenemg with Section 18.0) of Part 2 of Disison 1. giving due ronsideration to the past and prospective loss and expeuse expermene for medual malpractice insurane of all of the member companies of the assollation, trends in the frequency and severity of losses, the mestoment mome of the assoctation, and such other mformation as may be islevent
(b) Withm buel time as the commossoner shall derect, the nasociation shall submit, for the approval of the eommssioner, an inital filmg, in proper form, of pohey forms, clashifientrons, ating phoms and rating rules appleable to nedical malpractiee msuramee to be written by the yssoridition
(c) Whenever any members have bepn requned to contribute to the association pursuant to subdivision (e) the amount or amounts so contributed whall be reconped and rembus sed pro rata to the contributimg members, purbiant to the plan of operation and the rating plan then in effect by one or buth of the following procedures:
(1) An equitable assessmpnt upon policies which have been written by the association Every subseriber from the association shall be liable to pay, and shall pay, his proportional part of any such assessment Each such subseriber's share for which an assessment is made shall be determmed by applying to the premuum earned on the subseriber's policy or policies during the period to be covered by the assessment, the ratio of the total assessment to the total premiums earned durng such period, upon all policies subject to and available for such assessment.
(2) A rate increase applicable prospectively.
(d) Premum rates shall be on an actuarially sound basis which are calculated to make the association self-supporting, and designed reasonably to mimmize the need for contributions pursuant to subdivision (e).
(e) In the event at any time that sufficient funds are not available for the sound financial operation of the association, pending recoupment as provided in subdivision (c), all members shall, on a temporary basis, contribute to the financial requirements of the assocration in the manner provided for in Section 11924 Any such contribution shall be reimbursed to the members following recoupment as provided in subdivision (c) Interest at a rate equal to 24 percent per annum above the current rediscount rate of the Federal Reserve Bank of San Francisco shall be added to the contribution of any member which fails to submit the contribution requested by the association within 30 davs after such request In no event, however, shall the interest rate exceed the legal maximum
(f) The association shall offer polacies on an occurrence bacis only at rates established on an artuarially sound basis which are ealenatated to be self-supporting. and designed to reasonably minimize the need for contributions pursuant to subdivision (e) of this section

11924 All insurers wh are members of the association shall eontribute to the financial requirements of the association in the proportion that the net direct premiums of parh such member (excluding that portion of premiums attributable to the operation of the associntion) written during the preceding calendar year bears to the aggregate net direct premums written in this state hy all members of the association Edeh incurer's partucipation in the association shall he determined annually on the basis of such net direct premiums written during the preceding calendar vear as reported in the amual statements and other reports filed by the incurer with the commassioner Except as provided in this chapter. no member shall be obligated in any one year to reimburse the association on arcount of its proportionate share in the deficit from operations of the assocuation in that year in exeess of 1 pereent of its surplus to policyholders attributable to labilty insuranee written in this stite and the aggregate amount not so reimbursed shall be reallocated among the remaning members in accordance with the method of determmong participation prescribed in this subdivison, after exeluding from the computation the total net direct premums of all
members not sharing in such excess deficit In the event that the deficit from operations allocated to all members of the sssociation in any calendar year shall exceed 1 percent of their respective surplus to policyholders attributable to liablity insurance written in this state, the amount of such deficit shall be allocated to each member in accordance with the method of determinng participation prescribed in this section

11925 Whenever any member of the association shall be entitled to rembursement pursuant to this chapter, interest shall also be paid on the amount so reimbursed at the rate of 5 percent per annum Rates established pursuant to Section 11923 shall consider this interest expense.

## Article 4 General Provisions

11930. Any person aggrieved by any rate charged, rating plan, rating system, or underwriting rule followed or adopted by the association may request the board of regents to review the manner in which the rate, plan. system, or rule has been applied with respect to insurance afforded him Such request may be made by his authorized representative, and shall be written If the request is not granted within 30 days after it is made, the requestor may treat it as rejected Any act or decision of the board of regents or any request deemed rejected may be appealed to the commissioner within 30 days Upon such appeal, the commissioner mav make any order consistent with the purposes of this chapter and the plan of operation

11931 All orders or decisions of the commissioner made pursuant to this chapter shall be subject to judicial reverw in aecordance with law.

11932 There shall be no liability on the part of, and no cause of action of any nature shall arise against the association, its agents or employeees, an msurer, any licensed agent or broker, or the commissioner or authorized deputy commissioners, for anv statements made in good fath by them in any reports or commumeations coneerning risks insured or to be insured by the association, or at any administrative hearings conducted in connection therewith
11933. The assoriation shall file in the office of the commissioner, annually on or before the first day of March, a statement which shall contan information with respect to its transactions, condition, operations, and affars during the preceding year Such statement shall contain such matters and information as are preseribed and shall be in such form fs $1 s$ approved by the commissioner The rommissioner may, at any time, require the association to furnish additional information with respect to its tramsactions, condition, or any matter connected therewith considered to be material and of assistance in evaluating the scope, operation and experipnce of the association

11934 The commissioner shall make an examonation into the affairs of the ascocmation at least annually Such excmmation shall be conducted in the mamner preseribed in Article 4 (commencing with Section 730) of Chapter 1 of Part 2 of Division 1.
11935. The commissioner shall, on or before the first day of July in each year, commencing in 1976, make a report to the Governor, the Speaker of the Assembly, and the President pro Tempore of the Senate, regarding the transactions, condition, operations, and affairs of the association during the preceding year, and such other matters concerning the medical malpractice insuranee business deemed appropriate by him.
11936. All insurers required to be members of the association, on and after the effective date of this chapter, by continuing to hold a certificate of authority to transact insurance business. shall be deemed to have consented to the responsibilities imposed by this chapter.
11937. In addition to any powers conferred upon the commissioner by this or any other law, the commussoner is authorized to do all things necessary to enable the State of California and any msurer participating in any program approved by the commissioner fully to participate in any federal program of reinsurance or coinsurance which may be hereafter enacted for purposes similar to the purposes of this chapter.
11938. In accordance with the plan of operation, the association may appoint one or more of its members as a serveing company Each servicing company shall be reimbursed by the association for all reasonable expenses it incurs and for all payments it makes on behalf of the association Each servicing company shall have authority to perform any functions of the association that the board of directors lawfully may delegate to it, and to do so on behalf of and in the name of the association. The designation of servicing compames shall be subject to the approval of the commissioner.
11989. Upon the approval by the commissioner, the association shall have the authority to borrow funds when necensary to effectuate the provisions of this chapter.
11940. The association, either in its own name or through servicing companies, may sue and be sued and may use the courts to assert or defend any rights the association may have by virtue of the chapter as reasonably necessary to fully effectuate the provisions thereof.
11941. In addition to the provisions of Section 736. all reatonably necessary costs incurred by the commissioner pursuant to this chapter shall be charged to and promptly reimbursed by the association
11942. The association shall not be a member of the Callfornia Insurance Guarantec Association.
11943. For purposes of Section 12003 of the Revenue and Taxation Code, the word "insurer" shall ulso mean and include the association"

## Amendment 19

On page 37, strike out lines 34 to 36 , inclusive, and insert "Code that has made a rate increase after January 1, 1975, shall file a rate increase petition with the commissioner withn 10 days after the effective date of this act, or the announcement of such rate merease, whechever is latest in time, if such rate merease exceeds 10 percent of the rate charged".

## Amendment 20

On page 39, between lines 9 and 10, insert
"SEC. 278 The sum of ten thousand dollars ( $\$ 10,000$ ) is hereby appropriated from the General Fund to the Insurance Commissioner as an advance on costs incurred by the Department of Insurance pursuant to this act Such sum shall be returned to the General Fund as soon as the department has been rembursed pursuant to Section 11941 of the Insurance Code.

SEC. 27.9 The Legislature hereby declares its intent that, to the maximum extent possible. this act shall be construed in such a manner as will preserve its validity as a whole, whether or not particular provisions or applications are held invalid If any provistons of this act, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application. To this end, the provisions of this act are declared to be severable."

Set No. 2

## Amendment 1

In line 3 of the title of the printed bull, as amended in Assembly June 17, 1975, after "23613", insert ", 2361.5'.

## Amendment 2

On page 7, line 18, after "division", insert a comma.
Amendmant 3
On page 8, line 23, after "'made", insert "by regulation'.

## Amendment 4

On page 8, line 23, strike out "Each'"; and strike out lines 24 to 26 , inclusive.

Amendment 5
On page 8, line 29, strike out "certuficatees", and insert "certificate holders".

## Amendment 6

On page 8 , line 39 , strike out the comma, and insert "who may, but is not required to submit any additional exculpatory or explanatory statements or other information, which statements or other information must be meluded in the file,'.

## Amendment 7

On page 9, line 1, after "therefor", insert "who has been assigned to review the activities of a healing arts licentiate'".

## Amendment 8

On page 9 , line 2, after "thereof", insert "who has been assigned to review the activities of a healing arts licentiate".

## Amendment 9

On page 9, line 3, after "Affairs', insert 'who has been assigned to review the actıvities of a healing arts heentaate".

Amendment 10
On page 11, line 32, after "may", msert ", by regulation,'".
Amendment 11
On page 13, line 21, after "by', insert 'physician and surgeon".
Amendment 12
On page 13, line 22, strike out "hearing', and insert "deciding'.
Amendment 13
On page 13, strike out lines 29 to 36 , inclusive. and insert "responsibility for: (a) developug and admanistering the physurans and surgeons examination; (b) sssung heenses and certificates, (e) suspending, revoking or limiting licenses and certificates upon order of the Division of Medical Quality ; (d) ddministering programs of contmung competence for certificate holders pursuant to Section 21016 , (e) approving undergraduate and graduate medical education programs; (f) approving clinical clerkshp and special programs, (g) admmistering student loan programs, grants and reciprocity certificates."

## Amendment 14

On page 14, line 1 , after "committees", insert "and nonphysician certificate holders'.

Amandment 15
On page 14, line 6, strike out "To act", and insert "Acting'.
Amendment 16
On page 14, strike out lines 9 and 10 , and insert "(d) Reporting to the'".

Amendment 17
On page 14, line 38, strike out 'Members', and insert
"Each member".
Amendment 18
On page 14, line 39, strike out "designated", and insert "assigned".
Amendment 19
On page 14, line 39, strike out "one", and insert " f specific".
Amendment 20
On page 15, line 6, after the first "of", insert "physicians and surgeons".

Amendment 21
On page 15, strike out lines 26 and 27, and insert "the membership of a division to carry'.

## Amendment 22

On page 15 , line 28 , after 'rule"', insert a comma
Amendment 23
On page 16, line 12, after "practice", insert ", and the establishment of individual performance evaluation standards for certificate holders'.

## Amendment 24

On page 19, strike out lines 27 to 32 , inclusive, and insert
"Of those initaal appomtments of physicians and surgeons to medical quality review committees, for every three physicians so appointed, one shall serve a term which expres on September 1, 1978, one shall serve a term which expires on September 1, 1979, and one shall serve a term which expires on September 1, 1980.

Of those initual appointments of persons other than physicians and surgeons to medical qualty review committees, for every two persons so appointed, one shall serve a term which expires on September 1, 1979, and one shall serve a term which expires on September 1, 1980.';

## Amendment 25

On page 20, strike out lmes 6 to 11, melusive.

## Amendment 26

On page 20, line 23, after the first "committee", insert "or panel". Amendment 27
On page 20 , line 23 , after the second "committee", insert "or panel'".

## Amendment 28

On page 20 , line 24 , after "committee", insert "or panel'.

## Amendment 29

On page 20, lue 25, after "heensee", insert ", or restricting or limitmg the extent, scope, or type of practice of the certificate holder for a period of one year or less".

## Amendment 30

On page 20, line 27, after "committee", insert "or panel".
Amendment 31
On page 20, line 28, after "committee", insert 'or panel".
Amendment 32
On page 20 , line 30 , after "days", insert ", or restriction or limitation on the extent, scope, or type of practice of the certificate holder for a period exceeding one year,".

## Amendment 33

On page 20, line 33, after "days", insert ", or restriction or limitation on the extent, scope or type of practice of the certaficate holder for a period exceeding one year,".

Amendment 34
On page 20 , between lines 35 and 36 , insert
" 212311 Each medical quality review committee shall be staffed by at least one medical consultant and sufficient competent investigators from the Division of Iuvestigation of the department as are necessary to carry out the puipones of thas article The investigatorn so utiluzed shatll be specidly tiamed to msestigate medical practice activities."

## Amendment 35

On page 20, after line 40 , insert
"(b) To investigate all matters assigned to it by the Division of Medical Quality, and such other matters within the jurisdiction of a committee which it finds warraǹt action."

## Amandment 36

On page 21, line 1, strike out " (b) ', and insert "(e)".

## Amandment 37

On page 21, line 4, after "or", insert "a division of".

## Amendiment 38

On page 21, line 12, strike out " (c) ', and insert " (d)".

## Amandment 39

On page 21, line 20, strike out " (d)', and insert "(e)".

## Amendment 40

On page 21, line 25 , strike out " (e)', and insert "(f)"

## Amendment 41

On page 21, line 29 , strike out " (f)", and insert "(g) ".

## Amendment 42

On page 21, line 32, after "committee", insert "or panel".
Amendment 43
On page 21, line 38, strike out "case", and insert "decision'".
Amendment 44
On page 22, line 4, after "committees', insert "and'panels'.

## Amendment 45

On page 22, line 6, strike out "board", and insert "Division of Licensing'.

## Amendment 46

On page 22 , line 11, strike out "The board shall make"; and strike out lines 12 to 14, inclusive.

Amendment 47
On page 22, line 17, strike out "board", and"insert "Division of Medical Quality".

## Amendment 48

On page 22, line 23, after "committee", insert "or panel".
Amendment 49
On page 22, line 26, after "committen'", insert "or panel".
Amendment 50
On page 23, line 5, strike out "board", and insert "bureau'".
Amondment 51
On page 23, line 8, strike out "investigations", and insert "research".

## Amendment 52

On page 23, line 9, strike out "board", and insert "Divisions of the Board'.

## Amendment 53

On page 23 , line 10 , strike out "chairman deems", and insert "divisions deem".

## Amendment 54

On page 23, line 11, after "shall', msert ", within 30 days of such termmation,".

Amendment 55
On page 23, lme 15, after "bureau", insert "pursuant to Section 805'.

## Amendment 56

On page 23 , line 19 , after "provider", insert "and the appropriate committee'.

## Amendment 57

On page 23, between lines 19 and 20 , insert
"21248 The bureau shall be the repository for all reports filed with the board pursuant to Article 11 (eommencing with Section 800) of Chapter 1 of Division 2

21249 It is the intent of this article that the bureau shall serve to provide the divisions of the board with statistical information necessary to carry out their functions "

## Amendment 58

On page 23 , strike out line 22 , and in line 23 , strike out "committee, the" , and insert
"2361. The".

## Amendment 59

On page 24 , strike out lines 32 to 36 , inclusive

## Amendment 60

On page 25, line 8, after "committee', unsert "or panel'".
Amendment 61
On page 25, line 10 , strike out "hy', and insert "upon order of".
Amendment 62
On page 25 , line 12, after "committee", insert "or panel".

## Amendment 63

On page 25, line 14, strike out "by", and insert "upon order of".
Amendment 64
On page 25 , line 15 , strike out the colon, and insert "or panel".

## Amendment 65

On page 25, line 18, after "committee", insert "or panel".

## Amendment 66

On page 26, line 7, strike out "board", and insert "committee".

## Amendment 67

On page 26, line 23, strike out "the Division of Medical Quallity, the"; strike out line 24; and in line 25, strike out "resnew committee," and insert "any division of the Board of Medical Quality Assurance".

## Amendment 68

On page 28, line 24, strike out "a an", and insert "an'.
Amendment 69
On page 37, line 27, after " 4800 ", insert ")".
Amendmant 70
On page 37, line 28, after "to'", insert "the'.
Benate Amendmenta of June 27, 1975
Amendment 1
In line 1 of the title of the printed bill, as amended in Semate June 25,1975 , after " 2101 ", insert ", 2116".

Amendment 2
In line 2 of the title, after " $24 \overline{5} 4$ ", insert ", $24 \overline{2} G^{\prime \prime}$.
Amendment 3
In line 3 of the title, strike out " 23613 3,".
Amendment 4
In line 14 of the title, struke out "Section 3333 I', and nsert "Sections 3333.1, 3333.2, and 3333.3'.

## Amendment 5

In line 17 of the title, after the comma, insert "and to add Title 9.1 (commencing with Section 1295) to Part 3 of,".

Amendment 6
In lines 17 and 18 of the title, strike out "to add Section 1259 to the Health and Safety Code;'.

Amendment 7
Strike out line 19 of the title.
Amondment 8
On page 14, line 8 , strike out "nine", and insert "subject to confirmation by the Senate, seven'.

Amendment 9
On page 14, line 16 , strike out "nine", and msert "subject to confirmation by the Seuate, seven'.

Amendment 10
On page 16, line 13 , strike out "four', and insert "three".
Amendment 11
On page 16, line 17, strike out "three", and insert "two".

Amendment 12
On page 16, between lines 32 and 33 , insert
"SEC 113. Section 2116 of the Business and Professions Code is amended to read:

2116 The board may proqecute all persons guilty of violating the provisions of this chapter
It may employ inrestigators, legal counsel, and my such clerical assistanee as it may dean necessary to carry into offect the provisions of this chapter The board may fix the compensation to be paid for such service and may incur such other expenses as it may deem necessary
The Attorney General shall act as the legal counsel for the board and his services shall be a charge against it "

## Amendment 13

On page 22, line 30, strike out "recommendation", and insert "proposed decision'".

Amendment 14
On page 26, strike out lines 30 through 39 , inclusive.
Amendmant 15
On page 29, line 31, after "chapter.", iusert "No surplus in these receipts shall be deposited $m$ or transferred to the General Fund."

## Amendmant 16

On page 29. between lines 31 and 32 . insert
"SEC 2405 Section 2456 of the Business and Professions Code is amended to read.

2456 All fees earned by the board and all fines and forfeitures of bail to which the board is entitled shall be reported at the beginning of each month, for the month precedmg, to the State Controller. At the same time the entire amount of these collections shall be paid into the state treanury and shall be credited to the contingent fund of the Board of Meducal Examiners

This contingent fund shall be for the uses of the board and out of it shall be paid all salaries and all other expenses neepssarily incurred in earrying into effect the provisions of this chapter Any surplus accumulating in such contingent fund shall remern in such fund and shall not be transforied to the Gencral Fund "

Amardment 17
On page 30, strike out line 2.5 , and insert
"(d) The renewal fee shatl be fixed by the board at a sum not in excess of one hundred dollam ( $\$ 100$ ) "

Amendment 18
On page 31. line 7, strike out "(a) Except as provided in subdivision (b), du'", mith msert "(a) An'.

Amendment 19
On page 31 , line 15 . after the comma, insert "veterinarian,".

## Amendment 20

On page 31, line 27, strike out "Fifteen", and insert "Ten".
Amendment 21
On page 31, strike out lines 34 to 40 , inclusive; on page 32 , strike out lines 1 to 4 , and insert
"(b)".

## Amendment 22

On page 32, line 34, strike out ", or the", strike out lines 35 to 37 , inclusive; and in line 38, strike out "Code,".

Amendment 23
On page 33, between lines 30 and 31 , insert
"SEC. 24.6. Section 3333.2 is added to the Civil Code, to read:
3333.2. Compensation awarded for injury pursuant to an action based upon the professional negligence of a provider of health care services shall include and be limited to the following actual economic loss:
(a) The reasonable cost of necessary medical, surgical, and hospital treatment.
(b) The reasonable cost of rehabilitation therapy.
(c) All reasonable expenses necessarily meurred in obtaining services in lieu of those the person would have performed for the benefit of himself or his family if he had not been injured.
(d) All reasonable expenses for hiring a substitute to perform selfemployment services, in mitıgation of loss of income, or for hiring special help necessary to enable the injured person to work and mitigate loss of income.
(e) Loss of earnings, which shall be calculated by determining the probable income for the period for which such loss is incurred, reduced by an amount equal to any income which the injured person earns from substitute work, any income which such person would have earned in available substitute work he was capable of performing but unreasonably failed to undertake, and any meome which such person would have earned by biring an avallable substitute to perform self-employment services but unreasouably failed to do:
(f) Reasonable attorney fees, which are directly related to claiming and proving a compensable injury.
(g) In no action shall the amount of damages for noneconomic losses exceed two hundred fifty thousand dollars ( $\$ 250,000$ )

SEC. 24.7 Section 3333.1 is added to the Civil Code, to read :
3333 3. Compensation awarded survivors pursuant to an action based upon the professional neghgence of a provider of health care services shall include and be limited to the following
(a) Loss of income of the deceased which would probably have been contributed to the survivor if the deceased had not sustamed the fatal injury.
(b) All appropriate and reasondble expenses necessarily meurred by a survivor after a patient's denth and as a result thereof, in obtainng services in lieu of those which the patient would have performed for the benefit of such survivor if he had not sustained the fatal injury.
(c) All noneconomic damages which would have been recoverable by the survivor under the law but for the enactment of this division.

Compensution awarded survivors pursuant to this section shall be reduced by the expenses which the survivor would probably have incurred but which were avoided by reason of the patient's death."

## Amendment 24

On page 34 , strike out lines 18 to 27 . inclusive, and insert "This time limitation shall be tolled for any of the following: (1) upon proof of fraud, (2) intentional concealment, or (3) the presence of a foreign body in the person of the injured person. Actions by a minor shall be commenced within three years from the date of the alleged wrongful act except that actions by a minor under the full age of six years shall be commenced within three years or prior to his eighth birthday whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which parent or guardian and insurer or health care provider have committed fraud or collusion in the failure to briag an retion on behalf of the injured minor for professional negligence"

## Amendment 25

On page 35, line 37, strike out "one hundred", and insert "fifty".

## Amondment 28

On page 35, line 38 , strike out " $(\$ 100,000)$ ", and insert " $(\$ \mathbf{2 0} 0,000)$ )".

Amendment 27
On page 40 , after line 40 , insert
"SEC 26 6. Title 91 (commencing with Section 1295) is added to Part 3 of the Code of Civil Procedure, to read:

TITLE 91. ARBITRATION OF MEDICAL MALPRACTICE
1295. (a) Any contract for medical services which contains a provision for arbitration of any dispute us to medical malpractice shall have such provision as the first article of the contract and shall be expressed in the following language "It is understood that any dispute as to medochl malpractue, that is as to whether any medical services rendered under this contract were ummecessary or manuthorized or were improperly, neghgently or incompetently rendered, will be determined by submission to the Califormin Arbitration Commiston on Medical Ingury Compenation as provided by Califorma law, and not by a lawsuit or resort to court process except as Califorma law provides for judicial review of arbitration proceeding Both parties to this contract, by entermg into it, are grving up then constitutional right to have any such dispute decided in court of law before $n$ jury, and instead are accepting the use of arbitration"
(b) Immediately before the sugnature line provided for the individual contractmg for the medieal services must appear the following in at ledst 10 -pont bold red type.
"NOTTC'E RY SIGNING THIS CONTRACT YOIY ARE AGREEing to ilave any isnee of medical madirractice deCIDED BY NEI'TRAL ARBITRATION AND YOI ARE GIVING UP YOUR RIGIIT TO A JIRY OR COI'RT TRIAL. SEE ARTICLE 1 OF THIS CONTRACT."

Once signed, such a contract provision governs all subsequent open book account transactions between the signatories untul or unless rescinded by written notice within 30 days after the completion of medical services for which the contract was signed In the event such contract is terminated during the rendition of nedical treatment, such rescission shall entitle the provider of professional serviees to forthwith cease providing medical treatment Written notice of such reseission may be given by a guardian or conservator of the patient, if the patient is incapacitated or a minor.
(c) Where the contract is one for medical services to a minor it shall not be subject to disaffirmance of signed by the munor's parent or legal guardian."

## Amendment 28

Strike out pages 41 to 52 , inclusive, and on page 53, strike out lines 1 to 26, inclusive.

## Amendment 29

On page 54, strike out lines 4 to 10 , melusive, and insert "Code shall file a rate increase petition with the commissoner withm 10 days after announeng a rate increase which exceeds 10 percent of the rate charged such insured within the preceding 12 months"

## Amendment 30

On page 54 , line 20 , strike out "under subdivision (a)".

## Amendment 31

On page 55, between lines 5 and 6, insert
"(f) Professional liability insurance policies subject to the provisions of this section may provide that, within 15 days after the msurance commissioner has made a final determination that the proposed rate is excessive, the insurer may cancel such pohey, prowided that written notice has been given to the msured not less than 60 days prior to the effective date of the cancellation "

Amendment 32
On page 55, strike out lines 23 to 40 , inclusive
Senate Amendments of August 11, 1975
Amendment 1
In line 2 of the heading of the printed bill, as amended in Senate June 27, 1975, after "Calvo", insert ", Chacon".

## Amendment 2

In line 1 of the title, after " 3361 ', insert ", 2361.5 ".
Amendment 3
In line 3 of the title, after "Sections", insert " 2100.2, ,"

## Amendment 4

In line 4 of the title, strike out " 23615 ,".

## Amendment 5

In line 6 of the title, strike out "to add Section 2015 to,".

## Amendment 5.1

In line 15 of the title, strike out " 33332 and 3333.3 ", and insert '"and 33332 ".

Amendment 52
In lme 16 of the title, strike out "Section 6677 ", and insert "Sections 667.7 and $6747^{\prime \prime}$.

## Amendiment 6

In lines 21 and 22 of the title, strike out "Part 3 of Division 2 of".
Amendment 6.5
On page 7, strike out line 3 ; and on pare 8, strike out lines 1 to 4, inclusive.

## Amendment 7

On page 9, line 3. strike out "Legal Actions", and insert "Professlonal Reporting'.

## Amendment 8

On page 9. line 9, ufter "Optometry", insert ", the Board of Examiners in Veterinary Mediene".

## Amendment 9

On page 9, line 16, after "of", inselt ' $a$ '".

## Amendment 10

On page 9, line 16, after "'state". insert "which constitutes inprofessioual conduet under Section 2383, pursuant to the reporting requirenents of Section 803".

Amendment 11
On page 9 , line 22 , after "services", insert ", pursuant to the reporting requirements of Section 801 or 802'".

## Amendment 12

On page 9, lime 24, after "regulation", insert ", pursuant to subdiveson (b) of this section; (t) disciplinary information reported pursuant to Section 805"

## Amendment 13

On page 9 , between lines 34 and 35, insert
"I'pon a determmation by the committee that the complant is without merit, the central file sluall be purged of mformation rehating to the complaint."

Amendment 14
On pare 9 , line $3 \overline{3}$, strike out 'such", and insert "'central'.
Amendment 15
On page 12. line 39 , after "report", insert ", who is notified by the board withm 60 days of the filmg of the report,".

Amendment 16
On page 13, line 14, after " is'", insert "demed staff privileges, ".
Amendment 17
On page 13, lime 16, after "reaircted", msert "for a cumulative total of 45 day in any calendar year".

Amendment 18
On page 13, line 16, after "any", insert "medical".
Amendment 19
On page 13 , line 17 , strike out " 10 ", and insert ' 20 working'.

## Amendment 20

On page 13, line 10, strike out "said", and insert "the".
Amendmont 21
On page 13, between lines 25 and 26 , insert
"The reporting required herein shall not act as a"waiver of confidentiality of medical records and committee reports. The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800."

## Amendment 22

On page 14, strike out lines 1 to 19 , inclusive.
Amendment 22.3
On page 14, line 25 , strike out ' 17 ', and insert " 19 '".
Amendment 22.6
On page 14 , line 33 , strike out ' 17 ', and insert " 19 '.

- Amendment ${ }^{23}$

On page 14, between lines 35 and 36 , insert
"SEC. 4.5. Section 2100.2 is added to the Business and Professions Code, to read:

21002 . Notwithstanding any other provision of law, the terms "board" or "Board of Medical Examiners" as used in this chapter shall mean the Board of Medical Quality Assurance."

Amendment 24
On page 16 , line 10 , after the period, insert "Physician members of the board shall be appointed from physicians who have served at least one term on a district review committee or a medical quality review committee."

Amendment 24.5
On page 16 , line 23 , strike out "five", and insert "seven".

## Amendment 25

On page 17, line 6, after "counsel', insert ", medical consultants"
Amendment 26
On page 17, line 11, after "as the", insert "prosecuting"
Amendment 26.1
On page 19, line 4, strike out "five", and insert " 14 ".

## Amendment 26.3

On page 19, strike out lines 5 through 22 , inclusive, and insert
" (a) The first distriet consists of the Counties of Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Tehama, Plumas, Mendocmo, Glenn, Butte, Lake, and Colusa.
(b) The second distriet consists of the Counties of Sierra, Yuba, Sutter, Yolo, Placer, El Dorado, and Sacramento.
(c) The third distriet consists of the Counties of Sonoma, Napa, and Solano
(d) The fourth district consists of the Counties of Marin, San Francisco, and San Mateo
(e) The fifth district consists of the Counties of Contra Costa and Alameda.
(f) The sixth district consists of the Counties of Alpine, Amador, Caldveras, Tuolonne, San Toaquin, Stanislaus, and Merced.
(g) The seventh district consists of the County of Santa Clara.
(h) The eighth distriet consists of the Counties of San Benito, Monterey, and San Irais Obspo.
(i) The ninth district consists of the Counties of Mariposa, Madera, Fresno, Kings, Tulare, and Kern.
(j) The 10 th district consists of the Comnties of Santa Barbara and Ventura.
(k) The 11th district consists of the County of Los Angeles
(l) The 12th district consists of the Counties of Mono, Inyo, San Bernardino, and Riverside.
(m) The 13th district eonsists of the County of Orange.
( $n$ ) The 14th distret consists of the Counties of San Diego and Imperial."

## Amendmant 26.5

On page 19. strike out lines 30 to 40 , inelusive; on page 20 , strike out lines 1 to 18 inclusive. and insert
"(a) The first district whall be composed of 10 members, six of whom shall hold valid phacician's and surgeon's reptificaten. two of whom shall be pubhe memibers, and two of whom shall be nonphysician licentiates of a healing arte board.
(b) The serond dotrict shall be composed of 15 members, nine of whom shall hold valid phycirian's and surgeon's certaficates, three of whom slall be public members, and three of whom shall be nonphysicuns lurentiates of a healing arts board.
(c) The third distrut , hall be composed of 10 members, six of whom shall hold valid physician's and surgcon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentidtes of a leating arts board.
(d) The fourth diatrict shall be composed of 1.5 members, nine of whom thall hold vald physuian 's and surgeon's eertaficates, three of whom shall be puble members and three of whom shall be nonphysacian heentates of a healing arts board.
(e) The fifth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certiflcates, three of whom shall be public members, and three of whom shall be nomphysician licentiates of a healing arts board.
(f) The sixth district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certifieates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.
(g) The seventh district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certuficates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.
(h) The eighth district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be publie members, and two of whom shall be nonphysician licentiates of a healing arts board.
(i) The ninth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be publie members, and three of whom shall be nonphysician licentiates of a healing arts board.
(j) The 10 th district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician heentiates of a hedhug arts board
(k) The 11th district shall be composed of 20 members, 12 of whom shall hold valid physician's and surgeon's certaficates, four of whom shall be public members, and four of whom shall be nonphysician licentiates of a healing arts board.
(l) The 12th distrect shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician lieentiates of a healing arts board.
(m) The 13th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be puble members, and three of whom shall be nonphysician licentiates of a healing arts board.
(n) The 14th district shall be composed of 15 members, nine of whom shall hold walid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentintes of a healing arts board."

## Amendment 27

On page 22, line 22, strike out "At", and insert "Within 30 days of".

## Amendment 28

On page 23, between lines 2 and 3 , insert
"The Division of Medical Qualty shall aet upon a proposed decision within 90 days of receiving such decision from a committee."

## Amendment 29

On' page 23, lines 5 and 6, strike out " Division of Investigation of the department", and insert "board".

## Amendment 30

On page 23 , lines 12 and 13 , strike out " by the Division of Investigation of the department'.

Amandment 31
On page 23, lines 19 and 20, strike out "by the Division of Investrgation of the department'".

Amendment 32
On page 23, line 33, strike out "circumstances'.
Amendment 33
On page 23, lines 33 and 34 , strike out "judgment or settlement", and insert 'judgments or settlements'.

## Amendment 34

On page 23 , line 36 , strike out "three thousand dollars ( $\$ 3,000$ )", and msert "a cumulative total of thirty thousand dollars ( $\$ 30,000$ )' .

## Amendment 34.3

On page 23, between lines 38 and 39 , insert
"(e) Investigations conducted pursuant to this section shall be commenced within 15 days and completed within three months Where appleable, a progress report shall be issued to the complamant withon 30 days of the mitiation of the merstigation Once an mestugation has been completed and grounds for dissiplinary action are found by the Attorney General to exist the Attorney General shall file an accusation with a committee withn 30 days A hearing shall be held by a conmittee or a panel of a committee within 30 days of the filing of an areusation A deasion shall be rendered by a committee or panel of a committee withm 30 days after commencement of hearing.' ${ }^{\text {' }}$

Amendment 34.7
On page 23, line 39, strike out " (e) ", and insert

On page 23 , line 40 , strike out "or".

## Amendment 38

On page 23, line 40 , after "(e)", insert ", or (d)".
Amendment 37
On page 24 , line 39 , strike out " 21248 ', and insert " $21244 \overline{5}$ '.
Amendment 38
On pare 25 . between lines 9 and 10 , insert
"Upon a determmation by the committee or pancl that the communcation is without ment, the central file shatl be parged of mformation relating to the communication."

On page 25, strike out lines 16 to 40 , inclusive; on page 26, strike out lines 1 and 2, and insert
" 2124.5 There is hereby created under the Board of Medical Quality Assurance the Bureau of Medical Statistics The purpose of the bureau shall be to provide the board and its divisions with statistical information neeessary to carry out their functions of licensing, medical education, medical quality and discupline.

2124 6. The bureau shall conduct such research meluding the gathering of appropriate statistics as deemed desirable by the board and its divisions and related to their functions. The bureau shall have access to all medical or other information pertaning to the provision of health care services not privileged under law In the gathering of such information, the bureau shall initially draw upon existing sources of pooled health data and may purchase such information or contract for the development of such data. In the event that such sources are deemed inadequate by the board or a division the bureau may require any state agency or health care provider to transmit to the burean statistlcal information not privileged under law, provided that no provider shall be required to meur unreasonable expenses in the provision of such information The bureau shall not gather or maintain statistical or other information that identifies individual patients, plyymens or other health care providers, exeept for reports required by Article 11 (commencing with Section 800) of Chapter 1 of Division 2.

2124 7. Each insurer shall, withn 30 days of such termination, furnish the burean with the names of all health eare providers in this state whose malpractice lability insurance has been terminated Any liealth facilty that denies a health care provider privileges shall report such information to the bureau pursuant to Section 805 The bureau, upon the receipt of information submitted pursuant to this section, shall immediately transmit a copy of sueh information to the named health care provider and the appropriate committee.

21248 . The bureau shall be the repository for all reports filed with the board pursuant to Article 11 (commencing with Section 800) of Chapter 1 of Division 2.
2124.85. The bureau shall report at least annually to the Legislature on the data it has collected pursuant to this article. Such reports and any data not privileged under the law shall also concurrently be made avallable to the public.'

## Amendment 39 -

On page 29, line 23, after 'applied'", insert "solely".

## Amendment 40

On page 29 , strike out lines 26 to 40 , inclusive, and insert
"SEC 2405 . Section 2456 of the Busmess and Professions Code is amended to redd:
2456. All fees earned by the board and all fines and forfeitures of bail to which the board is entitled shall be reported at the beginning of each month. for the month preceding, to the State Controller At the same time the entire amount of these eollections shall be pald into the state treasury and shall be credited to the contingent fund of the Board of Medical Examiners

This contingent fund shall be for the uses of the board and out of it shall be paid all salaries and all other expenses necessarly incurred in carrying into effect the provisions of this chapter Any surplus accumulating in such contingrnt fund shall rematn in such fund and shall not be transferred to the General Eund "

## Amendment 41

On page 31, line 22, strike out "physician and surgeon, dentist,"; strike out lines 23 to 27 , inclusive, and insert "health care provider".

Amendment 42
On page 31, strike out line 29 . and in line 30 , strike out "for error or omission in such person's practice".

## Amendment 43

On page 32 , line 18 , strike out "monthly".

## Amendment 44

On page 32, line 29. strike out ", "recovered" means", and insert ": (1) "Recovered" means".

## Amendment 45

On page 32, line 35, strike out the period, and insert ",
(2) "Health care provider" means any person licensed or certified pursuant to Division 2 (emmmencing with Section 500) of the Busness and Professons Code, or licensed pursuant to the Osteopathic Initidtive Act, or the Chiropractic Imbiative Act. or lienced pursuant to Chapter 25 (commencing with Section 1440) of Diviswn 2 of the Health and Safety Code, and any "hnie, health dispensary. or health facility, liecnsed pursuant to Duison 2 (commenemg with Section 1200) of the Health and Safety Code "Health care provider" includes the legral representatives of a health empe provider:
(3) "Professional neghopene" medns an action for personal injury or wrongful death proximately caused by a health eare provider's negligent aet or omission to aet in the rendering of professional services. providing that such services are withon the scope of sprvices for whech heensed and are not withon day restriction mposed by the hcensmg agency or any licensed hospital"

Amendment 46
On page 33, lines 19 and 20 . strike ont "provider of health care serviecs", and nusert "health eare provider".

## Amendment 46.5

On page 33 , line 35 , strike out "and may also", strike out lines 36 and 37, and insert a period.

## Amendment 47

On page 34 , between lines 1 and 2 , msert
"(c) For the purposes of this section-
(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commenemg with Sectuon 500) of the Burnmess and Professions Code, or licensed pursuant to the Osteopathe Initiative Act, or the Chiropractic Intiative Act, or lieensed purumant to Chapter 25 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinee, hedth dispenciry. or health facility, leensed pursuant to Duision 2 (eommencing with Section 1200) of the Health and Safety Code "ITeatth care provider" includes the legal representatives of a health care provider,
(2) Professional negligence" means an action for persomal injury or wrongful death proximately caused by a health care provider's negligent act or omission to act in the rendermg of professional servecs. providing that such services are withm the scope of services for wheh licensed and are not withim any restriction imposed by the licensing agency or any leensed hospital"

## Amendment 47.5

On page 34 , strike out limes 4 to 40 , inclusive ; on page 35 , strike out lines 1 to 15 , inclusive, and insert
"33332. (a) In any action for mpury agamst a health care provider based on professional negligence, the mured plantiff bhat be entutled to recover noneconome losses to eompensate for pan, sutfering, inconvenence, physieal mparment, disfigurement and other nonpecumary damage
(b) In we action shall the amount of dimages for nomeronomuce losses exceed two hundred fifty thoundud dollars. ( $\$^{*} 2 \mathrm{Jon}, 000$ ) "

## Amendment 48

On page $3 \overline{3}$, strike out lines 19 to 23 . inclusive.

## Amendment 49

On page 35, line 24, strike out "honpital as the employer of any such person", and msert "health eare provider".

## Amendment 50

On page $3 \mathbf{3}$, lime $\mathbf{2 5}$, strike out "or for", stake ont lue $\mathbf{2 6}$, and in line $2 \overline{7}$, strke out "error or omission in uneh person's practice".

## Amendment 50.3

On page 36 , line 1 , strike out "This time lumitation shall be", and insert "In no event shall the time for commencement of leyal wetion exceed three yedis unless'".

## Amendment 50.7

On page 36, line 3, after "body", insert ", which has no therapeutic or diagnostic purpose or effect,"

## Amendment 51

On page 36, line 11, after "and'", insert "defendant's'".

## Amendment 52

On page 36, between lines 13 and 14, insert
" For the purposes of this section -
(1) "Health care provider" means any person licensed or rertufied pursuant to Division 2 (commencing with Section $\mathbf{3 0 0}$ ) of the Bustness and Professions Code, or heensed purstant to the Osteopathic Initiative Act, or the Chiropractuc Intiative Act, or licensed pursuant to Chapter 25 (commencme with Section 1440) of Division 2 of the Health and Safety Code, and any clinge, health dispessary, or health facility, licensed pursuant to Division 2 (commenemg with Section 1200) of the Health and Safety Code "Health care provider" includes the legal representatives of a health care provider,
(2) "Professional negligence" means an artion for personal mury or wrongful death proximately caused by a health care provider's neghgent act or omission to act in the rendening of professional services, providung that such services are within the soope of serviees for which heensed and are not withm any restriction mposed by the $\mathrm{l}_{1}$ censing aquency or any licensed hospital."

Amendment 53
On page 36 , line 21 , strike out "defendant's', and insert "health care provider 's'.

## Amendment 54

On page 36, lme 22, strike out ' ${ }^{\prime}$, meludug, but not limited to, the''; strike out lines 23 and 24 , and m lime 25 strike out "Health and Srfety Code,".

## Amondment 54.5

On page 36, line 26, after "given", insert "at least".

## Amendment 55

On page 37, between lines 3 and 4 . msert
"(f) For the purposes of this section
(1) "Health care provider" means any permon liecnsed or rertified pursuant to Division 2 (commencing with Section $5(0)$ of the Bumess and Professions Code, or hemsed purnant to the (hateopathe Inithative Act, or the Churopratie Intiative Aet or hembed purstant to Chapter 25 (commencing with Section 1440) of Dusum 2 of the [terlth and Safety ('ode; and any elme, hedth dippentrary or health facility, Itcensed pursuant to Division 2 (emmmeneng with Sectan 1100) of the Health and Safety Code "Health care provider" includes the legal representatives of a health cure provider,
(2) "Professional neglıgence" means an action fur personal mjury or wrongful death proximately cdused by a health care provider's negligent act or omssion to act in the rendering of professional scrvices, providing that such services are withm the seope of services for which hicensed and are not withm any restriction imposed by the $l_{1}$ censing agency or any licensed hospital"

## Amendment 56

On page 37, line 14, strike out "personal"

## Amendment 67

On page 37, line 15 , strike out "wrongful death', and insert "ddmages"'.

## Amendment 58

On page 37 , line 20 , strike out "if the payment of such"; and strike out lines 21 and 22 , melusive.

## Amendment 59

On page 37, line 24, after " ( $\$ 50,000$ ) ", msert "in future damages"

## Amendment 60

On page 37. line 33 , after the period insert "Tpon teammation of periodic payments of future damages, the court shatl order the return of this security, or so much as remams, to the judgment debtor"

## Amendment 60.5

On page 38, strike out lines 2 to 17 , inclustre, and iusert
"(2) In the event that the court finds that the judgment debtor has exhibited a continuing poltern of fulngy to make the payments. th speafied in paragraph (1), the rourt shall find the judrment debtor $m$ contempt of court and in addition to the requireal periode pasments, shall order the judgnent debtor to pay the judgment sedtor all dime ages tedused bi the falure to make such periodie phiments, meluding court conts and attorney's fees."

## Amendment 61

On page 38 , below line 40 . insert
"(3) "Health care provider" means any person luensed or errtified pursucmet to Dusime 2 (commenemp with Sirtoon i00) of the Busmess and Professions ('ode, or herensed purnuat to the Oaterpathe



 1200) of the Health and Satett: ('onle "Ihetith cure pronder" meludes the legal reprementatives of a liealth eare provider.
(4) "Professional negligence" means an action for personal injury or wrongful death proximately caused by a health care provider's negligent act or omission to act in the rendering of professional serviees, providing that such services are within the scope of services for which licensed and are not withm any restriction umposed by the licensing agency or any licensed hospital."

## Amendmant 61.5

On page 39, between lines 21 and 22, insert
SEC. 26.4. Section 674.7 is added to the Code of Civil Procedure, to read:
674.7. A certified copy of any judgment or order of the superior court of this state issued parsuant to Section 6677 , when recorded with the recorder of any county, shall from such recording become a hen upon all real property of the judgment debtor, not exempt from execution, in such county, owned by him at the time, or which he may afterwards and before the lien expires, acquire, for the respective amounts and installments as they mature (but shall not become a lien for any sum or sums prior to the date they severally become due and payable) which liens shall have, to the extent herein provided and for the period of 10 years from such recording, the same force, effect and priority as the lien created by recordation of an abstract of a money judgment pursuant to Section 674.

The certificate of the judgment debtor, certified by him under penalty of perjury, that all amounts and installments which have matured under said judgment prior to the date of such certificate have been fully paid and satisfied shall, when acknowledged and recorded, be prima facie evidence of such payment and satisfaction and conclusive in favor of any person dealing in good fath and for a valuable consideration with the judgment debtor or his successors in interest.

Whenever a certified copy of any judgment or order of the superior court issued pursuant to Section 6677 has been recorded with the recorder of any county, the expiration or satisfaction thereof made in the manner of an acknowledgment of a conveyance of real property may be recorded."

## Amendment 62

On page 42, line 34, strike ont "medical malpractice", and insert "professional negligence".

## Amendmant 83

On page 43, lines 1 and 2, strike out "the California Arbitration Commission on Medical Injury Compensation", and insert "arbitration'.

Amendment 69.5
On page 43, line 7, after "in", insert " $a$ ".

## Amendment 64

On page 43, strike out lines 20 to 33 , inclusive, and insert
"(c) Once signed, such a contract governs all subsequent open book account transactions for medical services for wheh the enntract was signed until or unless reseinded by written notice within 30 days of signature Written notice of such rescission may be given by a guardian or conservator of the patient of the patient is incapacitated or a monor
(d) Where the contract is one for medical services to a minor, it shall not be subject to disaffirmance of signed by the minor's parent or legal guardian.
(e) Such a contract is not a contract of adhesion, nor unconscionable nor otherwise improper, where it complies with subdivisions (a), (b) and (c) of thas section
(f) Subdivision (a) (b) and (c) shall not apply contract to any health care service plan contract offered by an organization remistered pursuant to Article 25 (commencing with Section 12530), of Division 3 of Title 2 of the Government Code, which has been negotiated to contain an arbitration agreement with subseribers and enrollees under such contract."

## Amendment 65

On page 56, strike out lines 22 to 40 , inclusive; and on page 57 , strike out lines 1 to 14, melusive, and insert
"11587. (a) Any insured person who holds a certificate or hieense issued pursuant to Chapter 5 (commenemg with Section 2000) of Division 2 of the Business and Professions Code, a license issued pursuant to the Osteopathic Initiative Act, or a license as a health facility pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, who alleres to be aggrieved by any medical malpractuce insurance rate gdopted by an insuref licensed pursuant to Part 2 (commencing with Section 680) of Division 1 may, in writing, request of such insurer an explanation of the composition of such rate and of its application to him If such explanation is allegred to be inadequate, unsufficient, or is not provided withm 30 daya after making the request therefor, such person may file a simple petition for hearing with the commssioner The conmissioner shall conduct publue hearmgs withm 15 days after a petition has been filed with hm to determme whether such rate is justified, according to the provwons of ('hupter 9 (commencing with Section 1850) of Part 2 of Division 1 The publie hearmg shanl be conducted pursuant to Chapter 5 (commenelig with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that any affected person, or his legal representative, shall, upon application to the commissioner at least five days pror to the hearmg. be allowed to reasonably partwipate on the examination of the usurer The commissioner shall determme whin $4 . \overline{\text { dins }}$ alter such petition has been filed whether such rate is so justafied in the event the commissioner finds such rate, or some part thereof, not to be so
justified, he shall inform the insurer, in detail, of the facts upon which he bases his conclusion and of the speesfic provisions of law upon which he relies In addition. the commssioner shall order the insurer to either reduce the rate to the level deemed by him to be justified or cancel the poliev upon 60 davs notice to the insured and fender to the insured all of the then unearned premium due such insured Such order shall be effective 15 days from the date thereof, upon which date such insurer shall mail any cancellation notice requared to be given an affected insured
(b) For the purposes of this section, two or more petitions recerved by the commissioner alleging grievances concermmg one rate adopted by an insurer shall be considered, heard, and determined simultaneously If additional such petitions alleging substantially similar grievances are received by the commissioner after the sssuance of a determination by him npon earlier filed petitions as herem provided, such additional petitions shall be automatically subject to such determmation, which fact the commssioner shall commumeate in writng to the petitioner and his insurer The commissioner shall disregard and deny anv petition allegmp grtevances based upon anv rate merease not greater than 10 percent of the annualized rate prevously charged the petitioner."

## Amendment 65

On page 57, lines 15 and 16 , strike out "filing a petition pursuant to this section'".

## Amendment 67

On page 57, strike out lines 26 to 40 , inclusive, on page 58, strike out limes 1 to 3, inclusive, and insert " (a)
(e) The provisions of this section shall remain in foree and effect until December 31, 1977, and on that date, this section is repealed, except that they shall continue in effect from year to year upon a finding by the Insurance Commissioner 30 days prior to the begming of each year that there stall exists a malpractice insurance crisis"

## Amendment 68

On page 58 , lines 12 and 13 , strike out "at prevaing rates", and insert "at rates which are not excessive or unfarly diserminatory as defined in Section 79003 ''.

## Amendment 69

On page 58, line 14, after 'corporations," insert "solely'".

## Demand for Previous Question

Messrs Siegler, Nimmo, MeVittıe, Boatwright, and Robinson demanded the previous question. Demand sustaned.

The question bemg Shall the Assembly concur in the Senate amendments to Assembly Bill No. 1 :

The roll was called, and the Assembly concurred in the above Senate amendments to Assembly Bill No 1 by the following vote:

| AYES-60 |  |  |  |
| :---: | :---: | :---: | :---: |
| Antonovich | Chimbole | Hughes | Mori |
| Arnett | Cline | Ingalls | Marnhy |
| Badham | Colher | Kapiloff | Nestunde |
| Bane | Craven | Key sor | Nimmo |
| Bannay | Davis | Lancaster | Peimo |
| Beverly | Deddeh | Lanterman | Priolo |
| Boatwright | Duffy | Lewis | Robinson |
| Briggs | Egeland | Lockyer | Suit |
| Burke | Fenton | MacDonald | Thomas, Fincent |
| Calvo | Foran | Maddy | Thomas, Waham |
| Camphell | Garamendi | MeAlister | Thurman |
| Carpenter | Greene | McLennan | Tucker |
| Chacon | Gualco | McVitte | Vasconcellos |
| Chapple | Hart | Mobley | Vicencia |
| Chel | Hayden | Montosa | Wornum |
| NOES-19 |  |  |  |
| Alatorre | Goggin | Papan | Torres |
| Berman | Keene | Ralph | Warren |
| Brown | Kyox | Rosedthal | Wilman |
| Cullen | Meade | Siegler | Mr Speaker |
| Dixon | Minler | Sleroty |  |

Motion to Reconsider Concurrence in Senate Amendmente to Assembly Bill No. 1 on Next Legrsłative Day
Mr Knox moved to reconsider on the next legislative day the vote whereby the Senate amendments to Assembly Bill No 1 were this day concurred in by the Assembly.

Assembly Bill No 1 ordered to the unfinished business file.

## RECESS

At 4.49 p.m., Speaker McCarthy declared the Assembly recessed until 5 :41 p.m.

REA8SEMBLED
At $5: 41 \mathrm{pm}$., the Assembly reconvened.
Hon. Leo T. MeCarthy, Speaker of the Assembly, presiding VOTE CHANGES
The following Members were granted unanmous consent to record their votes:

On concurrence in Senate amendments to Assembly Bill No 1: Mr. Chappie, "Aye"; Mr. Badham, "No" to "Aye"; Mr Gualeo, "Aye".

ADJOURNMENT
At 5:42 pm ., Speaker MeCarthy declared the Assembly adjournéd until 9•30 a m., Tuesday, September 9, 1975.

LEO T. MeCARTHY, Speaker
ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAILY JOURNAL <br> FIFTY-THIRD LEGISLATIVE DAY ONE HUNDRED FOURTEENTH CALENDAR DAY <br> IN ASSEMBLY

Assembly Chamber, Sacramento
Tuesday, September 9, 1975
The Assembly met at $5 \cdot 29 \mathrm{pm}$.
Hon. Louis J. Papan, Speaker pro Tempore of the Assembly, presiding.

Chief Clerk James D. Driscoll at the Desk.
Assistant Clerk Ray Monday reading.
ROLL CALL
The roll was called, and the following answered to their names-77-

| Alatorre | Colher | Keene | Papan |
| :---: | :---: | :---: | :---: |
| Aptonovich | Craven | Kejsor | I'erimo |
| Arnett | Cullen | Knox | 1'riolo |
| Badham | Davis | Ianterman | Ralph |
| Bage | Deddeh | Lewis | Romenilana |
| Banna ${ }^{\text {a }}$ | Dixon | Jocks er | Siagler |
| Berman | Dufy | Macl tomuld | Silioty |
| Beverly | Egeland | Maddy | Sunt |
| Boatwright | Fentom | McAluster | Jhomav, Vincent |
| Brigge | Fotan | MeLennan | Thomst, Willaam |
| Brown | Garamendi | McV'it tie | Thuman |
| Burke | Goggin | Meade | 'Juram |
| Calvo | Greene | Miller | Tucker |
| Camphell | Gualco | Mobleg | Vaseoncellos |
| Carpenter | Hart | Montosa | Fromera |
| Chacon | Hayden | Morı | Wnstan |
| Chappie | Hughee | Murphy | Wiluon |
| Chel | Ingalls | Nestunde | Wennnm |
| Chimbote Chne | Kapiloft | Nimmo | Mr Speaker |

Quorum present.

## PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

Father, You gave us the priceless gifts of intellect and will. You gave us a mandate to exercise our superiority over all other creatures, not in a detached or abusive manner, but appreciatively and creatively

In fulfilling this role do not let us forget our brothers and sisters who share this mandate with us While we can see You, God, in Your creation, we can also see ourselves in our brothers and sisters From the abnormalities in society help us learn more accurately, and work more diligently for the normal in ourselves -AMEN.

- pledge of allegiance to the flag

Upon request of Speaker pro Tempore Papan, Mr Burke then led the Assembly in the pledge of allegiance to the Flag.

## READING OF THE JOURNAL DISPENSED WITH

By unanimous consent, reading of the Journal of the prevous legislative day was dispensed with.

## LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness:

Mr. Lancaster, on request of Speaker pro Tempore Papan.
Mr. Robinson, on request of Speaker pro Tempore Papan.
MESSAGES FROM THE SENATE
Senate Chamber, September 8. 1955
Mr. Spenker: I nm directed to inform your honorable body thit the Seunte on this dny passed:

Senate Bill No. 24
DARRYL R WHITE, Secretart of the Senate
By John W. Rovane, Clijef Amsistant Secietars
Senate Chamhel. September 91975
Mr Speaker: I am directed to inform your honorable bod? that the Senate on this dns adopted:-

Senate Concurrent Resolution Na. 3
DARAYL R. WHITE, Recretary of the Senate By Jobn W. Rovane, Chief Asmatant Spelptirr

FIRST READING AND REFERENCE OF SENATE BILLS
The following bills were read the first time, and ordered held at the Desk:

Senate Bill No. 24-An act to amend Sections 4040, 11890, 1189.5, $11896,11897,11898,11900,11902,11902.2,11903$, and 11904 of the Insurance Code, relating to medieal malpractice insurance, molking an appropriation therefor, and declaring the urgency thereof, to take effiect immediately.

Senate Concurrent Resolution No. 3-Relative to the University of California.

## REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bill was referred to committee:

Senate
Bill No.
Committee
24
Finance, Insurance, and Commerce
REQUEST TO GONTINUE MOTION TO RECONSIDER CONCURRENGE IN SENATE AMENDMENTS TO ASSEMBLY BILL NO. 1
Mr Knox asked for unanimous consent that his motion to reconsider the vote on concurrence in Senate amendments to Assembly Bill No 1 be continued until the next legislative day.

Mr. McLennan withheld unanimous consent

## Motion to Continue Motion to Reconsider Coneurrence in Senate <br> Amendments to Assembly Bill No. 1

Mr. Knox moved that the motion to reconsider the vote whereby Senate amendments to Assembly Bill No. 1 were concurred in be continued to the next legislative day.

## Motion Withdrawn

Mr. Knox with granted unanimous consent to withdraw his motion to continue the motion to reconsider the vote on concurrence in Senate amendments to Assembly Bill No. 1.

Motion to Reconsider Concurrence in Senate Amendments to Assombly Bill No. 1 Waived
Mr. Knox waived his motion to reconsider the vote whereby Senate amendments to Assembly Bill No 1 were concurred in by the Assembly

Assembly Bill No. 1 ordered enrolled.

## BILLS WITHDRAWN FROM INACTIVE FILE

The following bill was withdrawn from the inactive file, and placed upon the third reading file:

Assembly Bill No. 4, on request of Mr. Goggin.

> JOINT RULE 62(a) WAIVED

Mr McAlister was granted unanımous consent that Joint Rule 62(a) be waived for the purpose of settmg Senate Bill No 24 for learme in the Committee on Finance, Insurance, and Commerce at $4 \cdot 30 \mathrm{pm}$. on September 10, 1975.

## ADJOURNMENT

At 541 p.m, Speaker pro Tempore Papan declared the Assembly adjourned until 9.30 am , Wednesday, September 10, 1975

LEO T. McCARTHY, Speaker
ANABEL FLEURY, Mınute Clerk

## CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

# ASSEMBIY DAIIY JOURNAL 

## FIFTY-FOURTH LEGISLATIVE DAY ONE HUNDRED FIFTEENTH CALENDAR DAY

## In Ass

Assembly Chamber, Sacramento
Wednesday, September 10, 1975
The Assembly met at 4:23 p.m.
Hon. Frank Murphy, Jr., Member of the Assembly, 28th District, presiding.

Chief Clerk James D. Driscoll at the Desk.
Assistant Clerk Ray Monday reading.

## ROLL CALL

The roll was called, and the following answered to their names-77:

| Alatorre | Craven |
| :---: | :---: |
| Antonovich | Cullen |
| Arnett | Davis |
| Bane | Deddeh |
| Banná | Dixon |
| Berman | Dufily |
| Beverly | Egeland |
| Boatwright | Fenton |
| Briggs | Foran |
| Brown | Garamendi |
| Rurke | Gogrin |
| Calvo | Greene |
| Campbell | Gualoo |
| Carpenter | Hart |
| Chneon | Hayden |
| Chappie | Hugbes |
| Chel | Ingalla |
| Chimbole | Kapioly |
| Cline | Keene |

Keysor
Knor
Lancaster
Lanterman
Lewis
Lockyer
MacDonald
Macidy
Mediater
McLennan
McVitte

- Mende

Miller
Mobley
Montoya
Morı
Murphy
Nestande
Nimmo

Prpan
Perino
Priolo
Ralph
Rolinson
Rosenthal
Siegler
Sieroty
Thomas, Vincent
Tbomas, William
Thurman
Torren
Tucker
Vaceoneellos
Vicenela
Warren
Wilson
Wornum
Mr. Speaker

Quorum present.

## PRAYER

The following prayer was offered by the Chaplain, Father Leo MeAllister:

God, We are grateful for ideas and concepts which have come to mind in the shadow of our mourning for Ed Z'berg.

And so we pray that all members of this house will be legislators rather than bill carriers; that each one will attack issues and not personalities; that each one will be true to oneself and as a result true to others; that integrity, openness and veracity will be the order of the day and season.-AMEN.

## pledge of allegiance to the flag

Upon request of Speaker McCarthy, Mr. Vincent Thomas then led the Assembly in the pledge of allegiance to the Flag.

## MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Papan, seconded by Mr. Maddy.

## LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, on legislatıve business, and desired to waive his per diem:

Mr. Suitt, on request of Speaker pro Tempore Papan.
The following Member was granted leave of absence for the day, on personal business, and desired to waive his per diem :

Mr. Badham, on request of Speaker pro Tempore Papan.
REFERENCE OF BILLS TO COMMITTEE
Pursuant to the Assembly Rules, the following resolution was referred to committee:
Senate Concurrent
Resolution No.
Committee
3_-...................................
bills passed on file
Assembly Bill No. 4-Passed on file.

## REQUEST FOR UNANIMOUS CONSENT

Mr McAlister was granted unanimous consent that the Desk be held open today to recerve the Report of the Committee on Finance, Insurance, and Commerce, relative to Senate Bill No 24, and that when the bill is reported from the committee that it be taken up without reference to file, for purpose of second reading, and adoptung committee amendments.

RECESS
At $4: 26$ p.m., Acting Speaker Murphy declared the Assembly recessed.

## REASSEMBLED

At $546 \mathrm{p} . \mathrm{m}$, the Assembly reconvened.
Hon. Leo T. McCarthy, Speaker of the Assembly, presiding.

## REPORTS OF STANDING COMMITTEES

Committea on Frnance, Insurance, and Commerce
Assembl3 Cbamber, Sentember 10, 1075
Mr. Speaker : Your Committee on Finance, Insurance, and Commerce reports:
Senate Bill No. 24
With amendmente with the recommendation-Amend, do pass, as amended, and be re-referred to the Committee on Wings and Means

McATISTER, Chnirman
CONSIDERATION OF SENATE BILL NO. 24 BY UNANIMOUS CONSENT
Pursuant to unanimous consent granted earlier this day, Senate Bill No. 24 was taken up, without reference to file, for the purpose of reading the bill a second time and adoptmg the committee amendments at thes time.

Senate Bill No. 24-An act to amend Sections 4040, 11890, 11895, $11896,11897,11898^{\prime}, 11900,11902,119022,11903$, and 11904 of the Insurance Code, relating to medical malpractice insurance, makmg an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

Bill read second time.

## Consideration of Committes Amendmente

The following amendments, proposed by the Committee on Finance, Insurance, and Commerce, were read, and adopted:

Bet No. 1
Amendment 1
In line 1 of the title of the printed bill, as amended in Senate September 5, 1975, after "Sections", insert " $800,804,21006,2101,2116$, 2123.1, $21232,21233,2123.9,2123.10,212421242,212445,21247$, 2372, 2372.5, 2454, 2456, 2458, and 6146 of, and to add Sections 21017 and 2601.5 to, the Business and Professions Code, to amend Sections 3333.1 and 3333.2 of the Civil Code, to amend Sections $3405,364,667$, and 1295 of the Code of Civil Procedure and to amend Sections'.

Amendment 2
In line 1 of the title, after " 4040 ", insert ", 11588".
Amendment 3
In line 3 of the title, strike out "insurance".

## Amendment 3.5

In line 3 of the title, after the second comma, insert "and to amend Assembly Bill 1 of the 1975-76 Second Extraordinary Session,''.

## Amendment 4

On page 2, strike out line 1, and insert
"SECTION 1. Section 800 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read:
800. (a) The Board of Medical Quality Assurance, the Board of Dental Examiners, the Board of Osteopathic Examiners, the Cahforna

Board of Registered Nursing, the Board of Vocational Nurse and Psychiatric Technician Examiners, the State Board of Optometry, the Board of Examiners in Veterinary Medicine, and the State Board of Pharmacy shall each separately create and maintain a central file of the names of all persons who hold a license, certificate or similar authority from such board. Wach such central fle shall be so crested and maintained as to provide an individual historical record for each such person with respect to (1) any conviction of a crime in this or any
other state which constitutes unprofessional eonduct under Section 2983, parsuant to the reporting requirements of Section 803; (2) any judgment or settlement requiring him or his insurer to pay any amount of damages in excess of three thousena dollars ( $\$ 3,000$ ) with respect to any claim that injury or death wes proximately caused by such person's negligence, error or omissior in practice or rendering of unauthorized professional services, pursuani to the reporting requirements of Section 801 or 802; (3) any pubiie comphaints for which provision is hereinafter made by regulation, pursuanit to subdivision (b) of this section; (4) diseiplinary information reported pursiant to Section 805
(b) Fach such board shall prescribe and promuigate forms on which members of the public and other licensees or certigeate holders may file written complaints to the board alleging any aet of misconduct in or connected with the performance of professional services by such person

Each such complaint shall be immediately forwarded to the appropriate medical quality review committee for zetion, pursunnt to Article 2.3 (commencing with Section 2123) of Chapter 5.

Upon a determination by the committee that the complaint is without merit, the eentral file shall be parged of information relating to the complaint.
(c) The contents of any central file shall be confldential except that it may be reviewed (1) by the persen licensee involved or his counsel or representative who may, but is not required to submit any additional exculpatory or explanatory statements or other information, which statements or other information must be included in the flle, (2) by any district attorney or representative or investigator therefor who has been assigned to review the activities of a healing atts licentiate, (3) by any representative of the Attorney General's office or investigator thereof who has been assigned to review the activities of a healing arts licentiate, or (4) by any investigator of the Department of Consumer Aftairs who has been assigned to review the activities of a healing arts licentiate. Such person licensee may, but is sot required to submit any additional exculpatory or explanatory statements or other information which statements or other information must be included in the file.
SEC. 1.01. Section 804 of the Business and Professions Code, as added by Assembly Bill No. 1 of tine 1075-76 Second Extruordinary Session, is amended to read:
804. (a) Any agency to whom reports are to be sent under Section 801 or Seetion 808, 802, or 803, may develop a prescribed form for the making of such reports, usage of which it may, but need not, by regulation require in all cases.
(b) A report required to be made by aبfer the fopeging seetions Sections 801 and 802 shall be deemed complete only if it meludes the following information (1) the name and last known business and residential addresses of every plaintuff or claimant involved in the matter, whether or not each such person recovered anything, (2) the name and last known business and residential addresses of every physician or provider of health care services who was claimed or alleged to have acted improperly, whether or not such person was a named defendant and whether or not any recovery or judpment was had against such person; (3) the name, address and primeipal place of business of every insurer providing professional liability insurance as to any person named in (2) and the usured's policy number; (4) the name of the court in which the action or any part of the action was filed along with the date of filing and docket number of each such action; (5) a brief description or summary of the facts upon which each claim, charge or judgment rested including the date of occurrence; (6) the names and last known business and readential addresses of every person who acted as counsel for any party in the litigation or negotiations, along with an identification of the party whom said person represented; (7) the date and amount of final judgment or settlement; and (8) such other information as the agency to whom the reports are to be sent may, by regulation, require
(c) Every person named in such report, who is notified by the board within 60 days of the filing of the report, shall maintan for the period of three years from the filing of such report any records he has as to the matter in question and shall make those avalable upon request to the agency with which the report was filed

SEC. 1.02. Section 21006 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read.
2100.6. The Division of Medical Quality shall have responsibllaty for (a) reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdietion of the board; (b) deeidint eases referreat to it by the Medical Qualty? Poview Gemandee the administration and hearing of disemphary actoons; (c) carrying-out disciplinary action appropriate to findmgs made by a Medical Quality Review Committee, a hearing afficer, or the diwsion.

SEC. 1035. Section 2101 of the Business and Professions Code, as amended by Assembly Bill No. 1 of the Second Extraordmary Session, is amended to read:
2101. Members of the board shall only be appointed from persons who have been citizens of this state for at least five years next preceding their appointment Members of the board, except the public members, shall only be appointed from persons who hold heenses under this chapter or any preceding medical practice net of this state Phy sieian members of the bonnd shatl be appointed from physineturn whe
 ent qualizy members of the faculty of a clinical department of an approved medical
school in the state. The public members shall not be licentiates of the board. No person who in any manner owns any interest in any college, sehool, or institution engaged in medical instruction shall be appointed to the board. Not more than four members of the board may be fulltime members of the faculties of medical sehools.

SEC. 1.037. Section 2101.7 is added to the Business and Professions Code, to read :
2101.7. The Governor may remove any member of the board for neglect of duty required by this chapter, incompetency, or unprofessional conduct.

SEC. 1.04. Section 2116 of the Business and Professions Code is amended to read:
2116. The board may prosecute all persons guilty of violating the provisions of this chapter.

It may employ investigators, legal counsel, medical consultants, and any such clerical assistance as it may deem necessary to carry into effect the provisions of this chapter. The board may fix the compensation to be paid for such service and may incur such other expenses as it may deem necessary.

The Attorney General shall act as the legal counsel for the board for any administrative or judicial proceedings and his services shall be a charge against it.

SEC. 1.05. Section 2123.1 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read :
2123.1. As used in this ertiele chapter:
(a) "Board" means the Board of Medical Quality Assurance of the State of California.
(b) "Committee" means a medical quality review committee created by this article.
(c) "District" means a district established by Section 21232
(d) "Department" means the Department of Consumer Affairs.

SEC. 1.06. Section 21232 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read :
2123.2. The state is divided, for the purposes of this article, into the following 14 districts:
(a) The first district consists of the Counties of Del Norte, Siskiyon, Modoc, Humboldt, Trinity, Shasta, Lassen, Tehama, Plumas, Mendocino, Glenn, Butte, Lake. and Colusa.
(b) The second district consists of the Counties of Sierra, Yuba, Sutter, Yolo, Nevada, Placer, El Dorado, and Sacramento.
(c) The third distriet consists of the Counties of Sonoma, Napa, and Solano.
(d) The fourth district consists of the Counties of Marin, San Francisco, and San Mateo.
(e) The fifth district consists of the Counties of Contra Costa and Alameda.
(f) The sixth district consists of the Counties of Alpine, Amador, Calaveras, Tuolumne, San Joaquin, Stanislaus, and Merced.
(g) The seventh district consists of the County of Santa Clara.
(h) The eighth district consists of the Counties of Santa Cruz, San Benito, Monterey, and San Luis Obispo.
(i) The ninth district consists of the Counties of Mariposa, Madera, Fresno, Kings, Tulare, and Kern.
(j) The 10th district consists of the Counties of Santa Barbara and Ventura.
(k) The 11th district consists of the County of Los Angeles.
(l) The 12th district consists of the Counties of Mono, Inyo, San Bernardino, and Riverside.
(m) The 13th district consists of the County of Orange
(n) The 14th district consists of the Counties of San Diego and Imperial.

SEC. 1.07. Section 2123.3 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read:
2123.3. A medical quality review committee is hereby created for each of the districts established by Section 21232 Ereh committee shall be composed of persons appointed by the Governor from among residents of the district.

The medical quality review committees shall have the following composition.
(a) The first district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.
(b) The second district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board
(c) The third district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon'sertificates, two of whom shall be public members, and two of whom shall be nonphysician lieentiates of a healing arts board
(d) The fourth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.
(e) The fifth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.
(f) The sixth district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board
(g) The seventh district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.
(h) The eighth district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a bealing arts board.
(i) The ninth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.
(j) The 10th district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.
(k) The 11th district shall be composed of 20 members, 12 of whom shall hold valid physician's and surgeon's certificates, four of whom shall be public members, and forr of whom shall be nonphysician hicentiates of a healing arts board.
(l) The 12 th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.
(m) The 13th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nomphysician licentiates of a healing arts board
(n) The 14th distriet shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

A medical quality review committee may, pursuant to regulations adopted by the Division of Medical Quality, establish panels of five committee members consisting of three phystian members, one public member, and one member who is a licentiate of a healing arts board other than the Board of Medical Quality Assurance for the purposes of hearing and deciding cases before a committee Five members shall constitute a quorum in order for a panel of a committee to conduct business It shall require an affirmative vote of a majority of those present at a meeting of a panel, such majority constituting at least a majority of a minimum quorum for a panel to decide any rase, atept an fule, pass any measure, or make any recommendation Where a medical quality review committee meets as a whole, a majority of the membership of the committee shall constitute a quorum to conduct business. It shall require an affirmative vote of a majority of those present at a meeting of a committee, such majority constıtuting at least a majority of a minimum quorum for a committee, to decide any case, adopt any mate, pass any measure, or make any recommendation.

A finding or dectsion by a panel established under this section shall constitute a finding or deesion by a committee.

SEC 108. Section 2123.9 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975-76 Second Extraordmary Session, is amended to read:
21239. Except as otherwise provided in this article, all hearings shall be conducted by a committee or panel of a committee in accordance with the provisions of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code

If a contested case is heard by a committee or panel of a committee, the hearing officer who presided at the heuring shall be present during the committee's consideration of the ease and, if shall assist and advise the committee or panel on matters of law.

SEC. 1.09. Section 2123.10 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read :
2123.10. Within 30 days of the conclusion of any hearing which is conducted by a committee or panel, the committee or panel shall render its decision. A decision by a committee or panel calling for the discipline of a licensee, or restricting or limiting the extent, seope, or type of practice of the certuficate holder for a period of one year or less, or the suspension from practice of a licensee for 30 days or less, shall be final, except where the committee or panel orders reconsideration -pursuant to Section 2124 1. Where a committee or panel renders a decision calling for suspension of a license for a period exceeding 30 days, or restriction or limitation on the extent, scope, or type of practice of the certificate holder for a period exceeding one year, or revocation of a license, the decision shall constitute a proposed decision to the Division of Medical Quality the The proposed decssion shall be subject to the same procedure as the proposed decision of a hearing afficer under subdivisions (b) and (c) of Section 11517 of the Government Code A final decision of a committee shall constrtute the decision of the Division of Medical Quality. No suspension for a period excecding 30 days, or restriction or limitation on the extent, scope, or type of practice of the certificate holder for a period exceeding one year, or revocation of a license shall be carried out except upon order of the Division of Medical Quality.

The Division of Medical Quality shall act upon a proposed decision within 90 days of receiving such decision from a committee.

SEC. 110, Section 2124 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read:

2124 A medical quality review committee shall heve the following authority and duties.
(a) To initiate reviews of the quality of medical care practiced by certificate holders.
(b) To investigate all matters assigned to it by the Division of Medical Quality, and such other matters within the jurisdiction of a committee which it finds warrant action.
(c) To initiate investigations of complaints made by members of the public, and other certificate holders, a health care facility or a
division of the board that a certificate holder has been guilty of unprofessional conduct and to report to the complainant within 90 days of the receipt of the complaint by the committee as to the committee's findings and decision. All investigations made pursuant to this section shall be commenced immediately and completed within 90 days, with 30-day progress reports submitted to the Division of Medical Quality
(d) To investigate the standards circumstances of practice of any physician and surgeon certificate holder which have resulted in any judgments or settlements requiring the certificate holder or msurer of the certificate holder to pay any amount in damages in excess of a cumulative total of thirty thousand dollars $(\$ 30,000)$ with respect to any claim that injury or damage was proximately caused by the certificate holder's error, negligence, or omission
(e) Investigations conducted pursuant to this section shall be commenced within 15 days and completed within three months Where applicable, a progress report shall be issued to the complainants within 30 days of the initiation of the investigation Once an investigation hes been completed and grounds for disciplinary action are found by the Attorney General to exist, the Attorney General shall file an accusation with a committee within 30 days. A hearing shall be held by a committee or a panel of a committee within 8045 days of the filing of an accusation. A deeiaion alatl be rendered by a eommittee
 ing.
(f) Where a review or investigation carried out pursuant to subdivision (a), (b), (c), or (d) of this section results in a likelihood or a finding of unprofessional conduct, to hold a hearing pursuant to Section 2123.8 to determine whether unprofessional conduct has occurred,
(f) Upon a finding of unprofessional conduct to take appropriate remedial or disciplinary action in relation to the certificate holder pursuant to Sections 2372, 2372.1, and 2372.5.
(g) Seek injuuctions or restraining orders pursuant to Section 2436.
(h) A committee or a panel of a committee which muestigates a certificate holder pursuant to this section shall not be the commattee or panel of a comimittce which hears any disciplinary matters resulting from that investigation.

SEC. 1.11. Section 2124.2 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975-76 Second Extruordinary Session, is amended to read:
2124.2. The Division of Medical Quality shall adopt, amend, or repeal, in accordance with the provisions of Chapter 45 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code, such regulations as may reasonably be necessary to enable medical quality review committees and panels to carry into effect the provisions of this article.

Failure to comply with the tinue limitations of Section 212310 or 2124 shall not incalidate any proceedings of the Division of Medical Quality, nor shall it affect the jurisdiction of the division to render a decision.

SEC. 1.12. Section 212445 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975-76 Second Extroordinary Session, is amended to read.

212445 Any physician and surgeon may communicate to the committee or panel regarding any other physicum and surgen. Such communieations shall remain coufdential and shall not be admissible before any hearing or before any court except that the committee or panel may begin investigation on the basis of such communication and may use such communication to develop further information. Such communication; exeept an provided mindivioiou (e) of fention 800, shall be admissible in a defamation action where it is alleged that communication is false and made with malice.

Upon a determination by the committee or panel that the communication is without merit, the central file shall be purged of information relating to the communication.

SEC 113. Section 21247 of the Business and Professions Code, as added by Assembly Bill No 1 of the 1975-76 Second Extraordinary Session, is amended to read:
2124.7. Each insurer shall, within 30 days of such termination, furnish the bureau with the names of all health eare providers in this state whose malpractice liability jnsurance has been terminated. Any health facility that limits or denies a health care provelew provedr's privileges shall report such information to the bureau pursuant to Section 805. The bureau, upon the receipt of information submitted pursuant to this section, shall immediately transmit a copy of such information to the named health care provider and the appropriate committee.

SEC. 114. Section 2372 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 197J-76 Second Extraordinary Session, is amended to read:
2372. The holder of a certificate whose default has been entered or who has been heard by a conmittee $\theta$, panel, or hearing officer thercof and found guilty may :
(a) Have his certificate revoked upon order of the Division of Medical Quality upon recommendation of the committee of, panel, or hearing officer thereof;
(b) Have his right to practice suspended for a period not to exceed one year upon order of the Division of Medical Quality upon recommendation of the committee or, panel, or hearing officer thereof;
(c) Be placed on probation by the commuttee;
(d) Have such other action taken in relation to discipline as the committee er, panel, or hearing officer thercof may deem proper.

SEC 115 Section 23725 of the Busines, and Professions Code, as amended by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read:

23725 . The authority of a eammittee the Dirision of Merlical Qual ity, a commuttee, or a hraring officer thercof to discupline the holder of a certifieate by placing him on probation includes, but is not limited to, the following:
(a) Requiring the certificate holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the emmittee Division of Medical Quality, a committee, or a hearing officer thereof.
(b) Requiring the certificate holder to submit to a complete diagnostic examination by one or more physcians and surgeons appointed by the Division of Medical Quality, a committee, or a hearing officer thereof. If the Division of Medical Quality, a committee, or a hearing offioer thereof requires the certificate holders to submit to such an examination, the committee shall recerve and consider any other report of a complete diagnostic examination given by one or more physicians of the certificate holder's choice.
(c) Restricting or limiting the extent, scope, or type of practice of the certificate holder.
SEC. 1.16. Section 2454 of the Business and Professions Code, as amended by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read:
2454. The receipts of the initial license fees and renewal fees collected by the Board of Medical Quality Assurance from persons licensed under this chapter shall be paid into the Contingent Fund of the Board of Medical Examiners of California which is continued in existence as the contingent fund of the Board of Medical Quality Assurance, and shall be used to carry out the provisions of this chapter relating to the compilation, publication, and sale of a directory.
If there is any surplus in these receipts after the expenses of issuing the directories have been paid, such surplus shall be applied solely to expenses incurred under the provisions of this chapter. No surplus in these receipts shall be deposited in or transferred to the General Fund.

SEC. 1.17. Section 2456 of the Business and Professions Code, as amended by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read:
2456. All fees earned by the board and all fines and forfeitures of bsil to which the board is entitled shall be reported at the beginning of each month, for the month preceding, to the State Controller. At the same time the entire amount of these collections shall be paid into the State Treasury and shall be credited to the contingent fund of the Board of Medical Eaminers Quality Assurance.

This contingent fund shall be for the uses of the board and out of it shall be paid all salaries and all other expenses necessarily incurred in carrying into effect the provisions of this chapter. Any surplus accumulating in such contingent fund shall remain in such fund and shall not be transferred to the General Fund.

SEC 1.175. Section 2458 of the Business and Professions Code, as amended by A.B. 1 of the 1975-76 Second Extraordinary Session, is amended to read:
2458. The amount of fees and refunds prescribed by this chapter in connection with physicians and surgeons certificates, certificates to practice podiatry, certificates to practice midwifery, and certificates of drugless practitioners is that fixed by the following schedule:
(a) The fee for each applicant for a certificate by written examination, unless otherwise provided in this chapter, shall be fixed annuuily by the board at an amount not to exceed one hundred dollars ( $\$ 100$ ) nor less than fifteen dollars ( $\$ 15$ ). If the applicant's credentials are insufficient or if he does not desire to take the examination, the sum of ten dollars ( $\$ 10$ ) shall be retained and the remainder of the fee is returnable on application.
(b) Each applicant for a certificate based upon a national board diplomate certificate, and each applicant for a reciprocity certificate, shall pay an application fee in the sum of ten dollars ( ${ }^{(100)}$ ) at the time his application is filed. If the applicant qualifies for a certificate, he shall be notified and, in addition to the initial license fee, shall pay a fee which shall be fixed annually by the board at a sum not in excess of one hundred dollars ( $\$ 100$ ) nor less than five dollars ( $\$ 5$ ) for the issuance of the certificate.
(c) Each applicant for a certificate under Artiele 6 shall pay an application fee in the sum of ten dollars ( $\$ 10$ ) at the time his applieation is filed. If the applicant qualifies for a certificate, he shall be notified and, in addition to the inital license fee, shall pay a fee which shall be fixed annually by the board at a sum not in excess of forty dollars ( $\$ 40$ ) nor less than five dollars ( $\$ 5$ ) for the issuance of the certificate
(d) The renewal fee shall be fixed by the board at a sum not in excess of one hundred fifty dollars ( $\$ 109$ ( $\$ 150$ ).
(e) The delinquency fee is ten dollars ( $\$ 10$ ).
(f) The duplicate certificute fee is two dollars (\$2).
(g) The endorsement fee is five dollars ( $\$ 5$ )
(h) The fee for issuance of a duplicate certificate upon a change of name authorized by law of a person holding a certificate under this chapter shall be two dollars (\$2).
(i) The intial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that if the lieense will expire less than one year after its issuance, then the initial license fee is an amount equal to fifty percent ( $\overline{0} 0,4$ ) of the renewal fee in effect on the last regular renewal date before the date on which the license is issued.

SEC 118. Section 26015 is added to the Business and Professions Code, to read:

26015 . Notwithstanding any other provision of law, the term "board" or "Board of Medical Examiners" as used in this chapter shall mean the Divison of Allied Health Professions of the Board of Mederal Quality Assurance.

SEC. 1.185. Section 6146 of the Business and Professions Code as added by AB 1 of the 1975-76 Second Extraordinary Sension, is amended to read:

6146 (a) An attorney shall not contract for or collect a contingency fep for representing any person seeking damages in commection with an action for injury or damage against a health care provider based upon such person's alleged professional negligence in excess of the following limits:
(1) Forty percent of the first fifty thousand dollars ( $\$ 50,000$ ) recovered.
(2) Thirty-three and one-third percent of the next fifty thousand dollars ( $\$ 50,000$ ) recovered.
(3) Twenty-five percent of the next one hundred thousand dollars $(\$ 100,000)$ recovered.
(4) Ten percent of any amount on which the recovery exceeds two hundred thousand dollars ( $\$ 200,000$ ).

Such limitations shall apply regardiess of whether the reeovery is by settlement, arbitration, or judgment, or whether the person for whom the recovery is made is a responsible adult, an infant, or a person of unsound mind.
(b) If periodic payments are awarded to the plaintiff pursuant to Section 667.7 of the Code of Civil Procedure, the court shall place a total value on these payments based upon the projected life expectaney of the plaintiff and include this amount in computing the total award from which attorneys' fees are calculated under this section.
(c) The Board of Governors of the State Bar of California shall report and make recommendations to the Legislature by July 1, 1976, on an equitable method for regulating compensation of defense counsel consistent with the policies embodied in this article regarding regulation of plaintiff's attorney's fees.
(d) For purposes of this section-
(1) "Recovered" means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim Costs of medical care incurred by the plaintiff and the attorney's office-overhead costs or charges shall not be deductible dishursements or costs for such purpose;
(2) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500 ) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 25 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Seetion 1200) of the Health and Safety Code "Health care provider" includes the legal representatives of a health care provider;
(3) "Profesoional regligenee" means an netion far pemomitinjuyy or wrongfuld death proximately entsed by athenth eave frovider's feg-
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(3) "Professional negligence" is a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and whech are not withon any restriction inposed by the licensing agency or licensed hospital.

SEC. 1.19. Section 33331 of the Civil Code, as added by Assembly Bill No 1 of the 1975-76 Second Extrhordinary Session, is amended to read:

33331 (a) In the event the defendant so elects, in an action for personal injury against a health care provider bused upon professional negligence, he may introduce evidence of any amount payable as a benefit to the plaintuff as a result of the personal injury pursuant to the United States Social Spcurity Act, any state or federal ineome disability or worker's compensation act, any health. siekness or ineomedisubulity insurance, gecident insurance that provides health benefits or income-disability coverage, and any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or remburse the cost of medical, hospital, dental, or other health care services. Where the defendant elects to introduce surh evidence, the plaintiff may intrgduce evidence of any amount which the plaintiff has pand or contributed to secure his right to any insurance benefits concerning which the defendant has introduced evidence
(b) Where evudence has been introduced of any amount payable to the plaintiff by a collateral source of indemnity described in subdiuision (a), it shall be conclusively presumed that any damages awarded the plaintiff were offset by such amounts and the judgment reduced thereby No collateral source of indemity described in wibdivision (a) shall recover any amount agninst the plaintiff nor shall it be subrogated to the rights of the plaintiff against a defrndant
(b) Unlers otherwise expwely provided by nantite, a eolluteral
 ghted to the rights of the plaintiff againat $t$ defendmut
(c) For the purposes of this section:
(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Ostropathic Inıtiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commeneing with Section 1440) of Division 2 of the IIealth and Safety Code; and any elinic, health dispensury, or liealth facility, licensed pursuant to Division 2 (commenemg with Section 1200) of the Health and Safety Code "Health care provider" includes the legal representatives of a health care provider,
(2) Professional negligence" mesns a negligent act or omission to act by a health care procider in the rendering of professionnl sermecs, which act or omission is the proxmate cause of a prrsonal mury or urongful death, pronded that such screices are within the scope of screices for which the provider ss licensed and which are not uithen any restrichon imposed by the licensing agency or licensed hospital ath ae-

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SEC. 1.191. Section 33332 of the Civil Code, as added by Assembly Bill No. 1 of the 1975-76 Second Extruordinary Session is amended to read:
3333.2. (a) In any action for injury against a health care provider based on professional negligence, the injured plaintiff shall be entitled to recover noneconomic losses to compensate for pain, suffering, meonvenience, physical impairment, disfigurement and other nonpecuniary damage.
(b) In no action shall the amount of damages for noneconomic losses exceed two hundred fifty thousand dollars ( $\$ 250,000$ ).
(c) For the purposes of this section:
(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing unth Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathe Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 25 (commencing with Section 1440) of Duision 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed purstant to Division 2 (commencing with Section 1200) of the Health and Safety Code "Health care provider" includes the legal representatives of a health care provider;
(2) "Professional negligence" means a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and which are not withen any restriction imposed by the licensing agency or lncensed hospatal

SEC. 1.192 Section 340.5 of the Code of Civil Procedure, as amended by A.B. $1^{\text {of }}$ the 1975-76 Second Extraordinary Session, is amended to read:
340.5. In an action for injury or death against a health care provider based upon such person's alleged professional negligence, the time for the commencement of action shall be three years after the date of mjury or one year after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first In no event shall the time for commencement of legal action exceed three years unless tolled for any of the following (1) upon proof of fraud, (2) intentional concealment, or (3) the presence of a foreign body, which has no therapeutic or diagnostre purpose or effect, in the person of the injured person Actions by a minor shall be commenced within three years from the date of the alleged wrongful act except that actions by a minor under the full age of six years shall be commenced within three years or prior to his eighth birthday whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which parent or guardian and defendant's insurer or health care provider have committed fraud or collusion in the failure to bring an action on behalf of the injured minor for professional negligence.

For the purposes of this section:
(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commeneing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includea the legal representatives of a health care provider;
(2) "Professional negligence" means a negligent act or omission to act by a health care provider in the rendering of professional screices, which act or omission is the proxtmate cause of a personal injury or urongful death, provided that such services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital.

SEC. 1.193. Section 364 of the Code of Civil Procedure as added by A.B. 1 of the Second Extruordinary Session, is amended to read:
364. (a) No action based upon the health care provider's professional negligence may be commenced unless the defendant has been given at least 90 days' prior notice of the intention to commence the action.
(b) No particular form of notice is required, but it shall notify the defendant of the legal basis of the claim and the type of loss sustained, including with specificity the nature of the injuries suffered.
(c) The notice may be served in the manner preseribed in Chapter 5 (commencing with Section 1010) of Title 14 of Part 2.
(d) If the notice is served within 90 days of the expiration of the applicuble statute of limitations, the time for the commencement of the action shall be extended 90 days from the service of the notice.
(e) The provisions of this section shall not be applicable with respect to any defendant whose name is unknown to the plaintiff at the time of filing the complaint and who is identified therein by a fictitious name, as provided in Section 474.
(f) For the purposes of this section:
(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or lieensed pursumnt to Chapter 25 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider;
(2) "Professional negligence" means negliyent act or omission to aot by a health care provider in the rendering of professonal scrvices, which act or omssion 4 the prorimate cause of a personal injury or wromfill death, promded that such serizes are within the scope of services for which the prouider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital.
365. Failure to comply with this chapter shall not invalidate any proceedings of any court of this state, nor shall it affect the jurisdiction of the court to render a judgment therein. However, fallure to comply with such provisions by any attorney at law shall be grounds for professional discipline and the State Bar of California shall mvestigate and take appropriate action in any such cases brought to its attention.

SEC 1194. Section 667.7 of the Code of Civil Procedure, as added by AB 1 of the 1975-76 Second Extraordinary Session is amended to read:
667.7. (a) In any action for injury or damages against a provider of health care services, a superior court shall, at the request of either party, enter a judgment ordering that money damages or its equivalent for future damages of the judgment creditor be paid in whole or in part by periodic payments rather than by a lump-sum payment if the award equals or exceeds fifty thousand dollars $(\$ 50,000) \mathrm{in}$ future damares In entering a judgment ordering the payment of future damages by periodic payments, the court shall make a specific findmg as to the dollar amount of periodic payments which will compensate the judgment creditor for such future damages. As a condition to authorizing periodic payments of future damages, the court shall require the judgment debtor who is not adequately insured to post security adequate to assure full payment of such damages awarded by the judgment. Upon termination of periodic payments of future damages, the court shall order the return of this security, or so much as remans, to the judgment debtor.
(b) (1) The judgment ordering the payment of future demages by periodic payments shall specify the recipient or recipients of the payments, the dollar amount of the payments, the interval between payments, and the number of payments or the period of time over which payments shall be made. Such payments shall only be subject to modification in the event of the death of the judgment creditor.
(2) In the event that the court finds that the judgment debtor has exhibited a contmuing pattern of failing to make the payments, as specified in paragraph (1), the court shall find the judgment debtor in contempt of court and, in addition to the required periodic payments, shall order the judgment debtor to pay the judgment credator all damages caused by the failure to make such periodic payments, including court costs and attorney's fees
(c) However, money damages awarded for loss of future earnings shall not be reduced or payments terminated by reason of the death of the judgment creditor, but shall be paid to persons to whom the judgment creditor owed a duty of support, as provided by law, immediately prior to his death In such cases the court which rendered the origmal judgment, may, upon petition of any party in interest, modify the judgment to award and apportion the unpaid future damages in accordance with this subdivision.
(d) Following the occurrence or expiration of all obligations specified in the periodic payment judgment, any obligation of the judgment debtor to make further payments shall cease and any security given, pursuant to subdivision (a) shall revert to the judgment debtor.
(e) As used in this section:
(1) "Future damages" includes damages for future medical treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and suffering of the judgment creditor.
(2) "Periodic payments" means the payment of money or delivery of other property to the judgment creditor at regular intervals
(3) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Intiative Act, or licensed pursuant to Chapter 25 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencong with Section 1200) of the Health and Safety Code "Health care provider" includes the legal representatives of a health care provider.


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 ney tien and a negligent act or omission to act by a health care provider in the rendering of professwnal services, which act or omisszon is the proxmate cause of a personal injury or wrongful death, provided that such services are wathen the scope of services for which the provider is licensed and which are not withrn any restriction amposed by the licensing agency or licensed hospital
(f) It is the intent of the Legislature in enacting this section to authorize the entry of judgments in malpractice actions agamst health care providers which provide for the payment of future damages through periodic payments rather than lump-sum payments By authorizing periodic payment judgments, it is the further intent of the Legislature that the courts will utilize such judgments to provide compensation sufficient to meet the needs of an injured plamtiff and those persons who are dependent on the plaintsff for whatever period is necessary while eliminating the potential windfall from a lump-bum recovery which was intended to provide for the care of an mjured plamntff over an extended period who then dies shortly after the judyment is pard, leaving the balance of the judgment award to persons and purposes for which it was not intended. It is also the intent of the Legislature that all elements of the periodic payment program be specified with certainty in the judgment ordermg such payments and that the judgment not be subject to modification at some future time which might alter the speenfications of the origmal judgment

SEC. 1195. Section 1295 of the Code of Civil Procedure as added by Assembly Bill No. 1 of the 1975-76 Second Extraorduary Session is amended to read:

1295 (a) Any contract for medical services which contains a provision for arbitration of any dispute as to professional negligence of a health care provider shall have such provision as the first article of the contract and shall be expressed in the following language: "It is
understood that any dispute as to medical malpractice, that is as to whether any medical services rendered under this contract were unnecessary or unauthorized or were improperly, negligently or incompetently rendered, will be determined by submission to arbitration as provided by California law, and not by a lawsuit or resort to court process except as California law provides for judieial revew of arbitration proceedings Both parties to this contract, by entering into it, are giving up their constitutional right to have any such dispute decided in a court of law before a jury, and instead are accepting the use of arbitration."
(b) Immedrately before the stgnature line provided for the individual contracting for the medical services must appear the following in at least 10 -point bold red type :
"notice. by sioning this contract you are agreetng to have any issue of medical malpractice decided by neutral arbitration and you are oiving up your right to a jury or court trial. - see article 1 of this contract."
(c) Once signed, such a contract governs all subsequent open-book account transactions for medical services for which the contract was signed untll or unless rescinded by written notice withm 30 days of signature. Written notice of such rescission may be given by a guardian or conservator of the patient if the patient is incapacitated or a minor.
(d) Where the contract is one for medical services to a minor, it shall not be subject to disaffirmance if signed by the minor's parent or legal guardian.
(e) Such a contract is not a contract of adhesion, nor unconscionable nor otherwise improper, where it complies with subdivisions (a), (b) and (c) of this section
(f) Subdivision (a) (b) and (c) shall not apply to any health care service plan contract offered by an organization registered pursuant to Article 25 (commencing with Section 12530), of Division 3 of Title 2 of the Government Code, which has been negotiated to contain an arbitration agreement with subscribers and enrollees under such contract
(g) For the purposes of this section:
(1) "Health care provider" means any person licensed or certified pursuant to Duesion 2 (commencing woth Section 500) of the Business and Professions Code, or Lecensed pursuant to the Ostropathic Intiature Act, or the Chiropractic Intiature Act. or licensed pursuant to Chapter 25 (commencing with Scction 1410) of Dursion 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, hcensed pursuant to Drezsion 2 (commencing with Section 1200) of the Health and Safety Code "Health care prouder" inchedes the legal represcntatives of $a$ health care provider;
(2) Professanal ueghyence' màms a neghigent act or omission to act by a health cave proirder in the rendering of professional services, which act or omission is the prorimate cause of a personal injury or wrongful death, prouded that such services are within the scope of services for which the provider is licensed and whech are not uathin any restriction imposed by the licensing agency or licensed hospitah.

SEC. 1.50. Section 440 of the Insurance Code is'.

## Amendment 5

On pape 3 , between lines 7 and 8 , insert
"SEC 151 Section 11588 of the Insurance Code. as added by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session is amended to read:
11588. No insurer authorized to do busmess in this state and to provide professional liability insurance to persons lawfullv engaged in the practice of medicine or osteopathy, health plans and to partnerships or corporations lawfully engaged in the operation of hospitals, sanitariums, clinies or other health care facilities shall refuse to issue or renew insurance at rates whach are not exressive or unfairlu discriminatory as defined in Section 1852 to such persons partnerships or corporations, solely on the grounds that such persons partnerships or corporations have entered or intend to enter into valid written agreements with patients or prospective patients for the arbitration of cases or controversies arising out of the professional or business relationships between such persons, partnerships or corporations and sadd patients."

## Amendment 6

On page 3, line 8, strike out "SEC 15", and insert
"SEC 1.60".

## Amendment 7

On page 11, line 16, strike out "SEC 3", and insert "SEC 12".

## Amendment 7.5

On page 11, line 19, after "to", insert "Section 150 and Sections 160 to 11, inclusive of".

## Amendment 8

On page 11, after line 22, insert
"SEC 12.5 Section 1 of Assembly Bill No 1 of the 1975-76 Second Extraordinary Session is amended to read.

Section 1. (a) This art shall be known and may be cited as the Medical Injury Compensation Reform Act
(b) The Legislature finds and declares that there is a major health care crisis in the State of California attributable to skyrocketing malpractice premium costs and resulting in a potental breakdown of the health delivery system, severe hardships for the medically indigent, a denial of aceess for the economically marginal and depletion of physicians such as to substantially worsen the quality of health care avalable to entizens of this state The Legislature, arting withm the srope of its police powers. finds the statutory remedy herein provided is intended to provide an adequate and reasonable remedy within the limits of what the foregoing public health and safety considerations permit now and into the foreseeable future

SEC 13 Sections 1 to 1195 , welnsive, and Sections 151,125 and 126 shall become operative only if Assembly Bill No 1 of the 1975-76 Second Extraordinary Session becomes effective, and such sections shall become operative on the effective date of Assembly Bill No. 1 of the Second Extraordinary Session.

SEC 14. If any provision of this act or the appleation thereof to any person or curcumstances is held anvalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable."

## Set No. 2 <br> Amendment 1

On page 3, line 19, of the printed bill, as amended in Senate September 5, 1975, strike out "hcensed physician", and unsert "licensee".

## Amendment 2

On page 6, between lines 6 and 7 , insert " one hundred thousand dollars ( $\$ 100,000$ ) for each claimant under one policy, and three hundred thousand dollars ( $\$ 300,000$ ) for all clamants under one policy in any oue yeur ; or,'".

Set No. 3
Amendment 1
On page 4 , line 17 , of the printed bill, as amended in Senate September 5,1975 , strike out "county', and insert "region'".

## Amendment 2

On page 4, line 19, strike out "county", and insert "region".
Amendments 3 and 4
On page 4, lime 22 , strike out "operiting"; strike out line 23 , and in line 24, strike out "through the association', and insert "in any geographie region defined by him'".

## Amendment 5

On page 4, line 26, strike out "county', and insert "region'".
Amendment 6
On page 4 , line 33 , strike out "county", and insert "region'.
Amendment 7
On page 4, line 38, strike out "coinsureds", and insert "additional insureds".

## Amendment 8

On page 5, strike out lines 1 to 23 , inclusive, and msert " (1) any unsurer from issung or renewing any policy of medienl malprathe msuramee 1 m this state, provided, however, that upon a determmation by the commssioner, after puble hearing, that subutantal adserse selectoon witho day geographical region designated by him aganst the asociation has, or will likely, result, the commisioner may wise an onder to msurers operating m sueh region that no orumal polieres whall thereafter be issued or that renewal poluenes stall be insued only of the insurer will offer surh masurance to a representative sample of rathig clanifications, or both Each usturer issung or renewing polecies withon the region specified in such order shall submit to the commissioner, on
a quarterly basis, the number of its insureds in each of its rating classifications in such region, together with such other information as the commissioner may require Such data shall be provided in such manner and within such times as the commissioner shall establesh The commssioner shall, within 30 days after recept thereof, make a determmation as to the compliance with this subdivision by the filer The commissioner shall be entitled to inspect at any tume a list of each msurer's insureds, grouped according to thear rating classifications, or (2) any mburer from assuing or renewing any policy of medical malpractice insurance to any physician and surgeon who specializes in psyehıatric medicine"

## Amendment 9

On page 7, line 25, strike out "No", and insert "Except as otherwise provided in this chapter, no".

## Amendment 10

On page 7, line 39, strike out "period", and insert "same period covered by'".

Amendment 11
On page 7, line 40 , strike out "was in effect".
Amendment 12
On page 8, strike out lines 30 to 33 , melusive, and in line 34 , strike out "for the rider", and insert "on a quarterly basis for a period not to exceed two years''.

Amandmant 13
On page 8, line 35, after the period, insert "Any policyholder electing to pay for the occurrence rider on a deferred payment basis may be assessed a finance charge of not to exceed 6 percent per annum on the unpaid balance."

## Amendment 14

On page 9, line 9, strike out "The', and insert "Except as provided to the contrary herein, and notwithstanding the provisions of Section 1860.2, the' ${ }^{\prime}$.

## Amendment 15

On page 9 , strike out line 23 , and insert "established by the association In determining whether the association's rates are in compliance with Chapter 9 (commeneing with Section 1850) of Part 2 of Divasion 1 , the commissioner shall consider recommendations made by a panel'.

## Amendment 16

On page 9, lines 28 and 29, strike out "California Medical Association', and msert "Governor from a lint of names submitted by the state's professional medical societies".

## Amendment 17

On page 9 , strike out lines 33 and 34 , and in line $3 \overline{5}$, strike out "Session", and insert "after the submussion of such rates by the association".

Amendment 18
On page 9 , lines 35 and 36 , strike out "the rates shall be recommended", and unsert "the panel shall file its rate recommendations with the commissioner. Thereafter, the panel shall conduct public hearngs and make recommendations when requested by the commssioner. Any dissenting panel member may submit minority recommendations"

Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means.

## ADJOURNMENT

At 8 pm , Speaker McCarthy declared the Assembly adjourned untıl $9: 30$ a m., Thursday, September 11, 1975.

LEO T. McCARTHY, Speaker
ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBLY DAIIY JOURNAL <br> Fifty-fifth Legislative day ONE HUNDRED SIXTEENTH CALENDAR DAY

## IN Agsembly

Assembly Chamber, Sacramento
Thursday, September 11, 1975
The Assembly met at $6: 55 \mathrm{pm}$
Hon. John F. Foran, Member of the Assembly, 23rd Distract, presiding.

Chief Clerk James D Driseoll at the Desk.
Assistant Clerk Ray Monday reading.
ROLL CALL
The roll was called, and the following answered to their names-79:

| Alatorre | Collter | Keysor | Permo |
| :---: | :---: | :---: | :---: |
| Antonovich | Craven | Knox | Priolo |
| Arnett | Cullen | Lameaster | Ralph |
| Badham | Devis | Lanterman | Robinson |
| Bane | Dedreh | Lewns | Fowenthal |
| Bannai | Dison | Lockyer | Slegler |
| Berman | Duff: | Marlonald | Siepaty |
| Beverly | Egeland | Maddy | Suitt |
| Boatwright | Fenton | Mredlister | Thomas, Vmeent |
| Briges | Foran | MeLeman | Thomas, Willam |
| Brown | Garnmendı | McFittie | Thurman |
| Burke | Goggin | Mende | Torres |
| Calso | Greene | Miller | Tucker |
| Camphell | Gualco | Mobley | Vasconeellos |
| Carpenter | IIart | Mintosa | Vicencia |
| Chacon | Hhyden | Morı | Warren |
| Chappie | Hughes | Murphy | Wilson |
| Cbel | Ingulls | Nestande | Wornum |
| Chimbole | Kapiloff | Nimmo | Mr. Speaker |
| Clane | Кееце | Payan |  |

Quorum present.

## PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister :

O Great Spirt, Whose voice I hear in the winds, and whose breath gives hfe to all the world, hear me ${ }^{1}$ I am small and weak; I need Your strength and wisdom. Let me walk in beauty, and make my eyes ever behold the red and purple sunset. Make my hands respect the things You have made and my ears sharp to hear Your voice Make me wise so that I may understand the things You have taught my people Let me learn the lessons You have hidden in every leaf and rock I seek strength, not to be greater than my brother, but to fight my greatest enemy-myself Make me always ready to come to You with clean hands and straight eyes So when life fades, as the fading sunset, may my sprit come to You without shame.

## American Indian Prayer

## pledge of allegiance to the flag

Upon request of Acting Speaker Foran, Mr. Maddy then led the Assembly in the pledge of allegiance to the Flag.

# motion to dispense with reading of the journal <br> Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Bannai, seconded by Mr. Hayden. <br> <br> COMMUNICATIONS 

 <br> <br> COMMUNICATIONS}

Assembiv Chamber, September 11, 1975
Mr Speaker Pursiant to sour matructions the Chief Clerk has examined
Assembly Bill No. 1-An met to amend Sections 125.5, 2100, 2101 2116, 2119, 2361, $23615 \quad 2362,236423725 \quad 2436.2454,2456$ and 24 K of to add sections 2100.2 ,
 Article 11 ( commencing with Section 810 ) to Chapter 1 of 1bision 2 of. to add Aiticle 23 (commpneng with Section 2123) and Aiticle 24 (commenciug with Section 21245 ) to Chapter 5 of Disusion 2 of to add Atticle 85 (commeneing with Section 6146, to Chapter 4 of Disision 3 of, to reppeal Section 2372 of. to repeal Article 11 (commencing with Section 800) of Chapter 1 of Jivision 2 of, and to repeal Article 23 (commeneing with Section 2123) of Chapter 5 of $1 \mathrm{H}_{14}$ sion 2 of the Buamess and $P^{3}$ ofessions Code, to amend Section 438 of and to add Nections 33331 , nud 33332 to the Conl Code, to amend Sectiona 3405 and 10045 of to add Npetions 607 t and Bat 7 to. and to add Chnptes $\overline{3}$ (commenemg with Section 364) to Title 2 of Part 2 of, and to add Title 11 (commencug with Section 129a) to Part 3 of, the Code of Cuil Piocedue, and to add Neetions 11585 and 11.888 to, the Insuance Code, relating to health, and mahmg an appropiation therefor,
And repoits the same coniectly eurolled, and presented to the Goiernor at 6 pm , September 11, 1975.

JAMES I) DRISCOII, Chef Cleak
JOINT RULE 62(a) WAIVED
Mr Keene was granted unanimous consent that Joint Rule 62(a) be waived for the purpose of setting Senate Bill No 24 for hearing in the Committee on Finance, Insurance, and Commerce.

BILLS PASSED ON FILE AND PLACED UPON THE INACTIVE FILE
Assembly Bill No. 4-Passed on file, and placed upon the inactive file pursuant to the Assembly Rules.

## AUTHOR'S AMENDMENTS <br> Committee on Ways and Meana

Assembly Chamber, September 11, 1975
Mr Speaker- The Chairman of your Committee on Ways and Means reports: Senate Bill No 24
With author's amendments with the recommendition Amend, and re-iefer to the Committee on Ways and Means.

FORAN, Charman
Senate Bill No. 24-An act to amend Sections 4040, 11890, 11895, 11896, 11897, 11898. 11900, 11902. 11902 2, 11903, and 11904 of the Insurance Code, relating to medical malpractice insurance. making in appropriation therefor, and declaring the urgency thereof, to take effect immediately

Bill read second time.
Consideration of Author's Amendments
The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Set No. 1
Amendment 1
In line 1 of the title of the printed bill, as amended in Assembly September 10, 1975, after "Sertions", insert "160,".

Amendment 2
In line 6 of the title, strike out " 667 ', and insert " 6677 ".
Amendment 3
In line 7 of the title, strike out 'and", and msert a comma.
Amondment 4
In line 9 of the title, after the comma, insert "and to amend Section 8303 of the Penal Code, ${ }^{\prime \prime}$.

## Amondment 5

On page 3, strike out line 2, and insert.
"SECTION 1. Section 160 of the Business and Professions Code is amended to read.

160 The Chef and all mvestigators of the Division of Investigation of the department and all investrgators of the Board of Mcdical Quality Assurance have the authority of peace offleers while engaged in exercisug the powers granted or performmg the duties imposed upon them or the division $m$ investigatmg the laws administered by the various boards comprising the department or commenemg directly or mdirectly any crininal prospeution arising from ans investigation conducted under these laws All persons herein referred to shall be deemed to be actug with the scope of employment with respect to all acts and matters in this section set forth

SEC. 1005 Section 800 of the Business and".
Amandmant 6
On page 25, strike out lines 7 to 14 , inclusive.

## Amendment 7

On page 29, between lines 33 and 34, insert
"SEC 1 196. Section 1295 of the Code of Civil Procedure, as added by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read:

1295 (a) Any contract for medical services which contains a provision for arbitration of any dispute as to professional negligence of a health care provider shall have such provision as the first artucle of the contract and shall be expressed in the following language "It is understood that any dispute as to medical malpractice, that is as to whether any medical services rendered under this contract were unnecessary or unauthorized or were improperly, negligently or incompetently rendered, will be determined by submission to arbitration as provided by Califorma law, and not by a lawsuit or resort to court process except as Californa law provides for judicial review of arbitration proceedings Both parties to this contract, by entering into it, are giving up ther constitutional right to have any such dispute decided in a court of law before a jury, and instead are accepting the use of arbitration "
(b) Immediately before the signature line provided for the individual contracting for the medical services must appear the following in at least 10 -point bold red type:
"notice- by signing this contract you are agreeing to have
any issue of medical malpractice degided by neutral arbitka-
TIon and you are giving up your right to a jury or court trial.
see articee of this contract."
(c) Once signed, such a contract governs all subsequent open-book account transactions for medical services for which the contract was signed until or unless rescinded by written notice within 30 days of signature Written notice of such rescission may be given by a guardian or conservator of the patient if the patient is incapacitated or a minor.
(d) Where the contract is one for medical services to a munor, it shall not be subject to disaffirmance if signed by the minor's parent or legal guardian
(e) Such a contract is not a contract of adhesion, nor unconscionable nor otherwise improper, where it comples with subduvisions (a), (b) and (c) of this section.
(f) Subdivision (a) (b) and (c) shall not apply to any health care Artele C 与 of the Germment Chapter 22 (commencing with Sectoon 1340) service plan contract offered by an orgamzation registered pursuant to to contain an arbitration agreement with subscribers and enrollees of Dirwion 2 of the Health and Safety Code, which has been negotiated under such contract
(g) For the purposes of this section:
(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or lucensed pursuant to the Ostcopathe Intiative Act, or the Chropractic Inatiative Act, or lucensed pursuant to

Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any cilnic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Secton 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider;
(2) Professional negligence" means a negligent act or omisson to act by a health care provider in the rendering of ppefcssional services, which act or omission is the proximate cause of a personal anjury or wrongful death, provided that such services are withan the scope of services for which the provider is licensed and which are not withn any restriction imposed by the lucensing agency or licensed hospital

SEC. 1.197. Section 1.196 shall become operative only if both Assembly Bill No. 1 of the 1975-76 Second Extraordmary Session and Assembly Bill No. 138 of the 1975-76 Regular Session become effective, in which case, Section 1196 shall become operative when both Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session and Assembly Bill No. 138 of the 1975-76 Regular Session become operative and at that time, Section 1.195 shall no longer have any force or effect."

## Amendment 8

On page 39, between lines 11 and 12, insert
"SEC 105 . Section 8303 of the Penal Code is amended to read-
830.3 (a) The Deputy Director, Assistant Directors, chiefs, assistant chiefs, special agents, and narcotics agents of the Department of Justice, and such investigators who are so designated by the Attorney General, are peace officers.

The authority of any such peace officer extends to any place in the state as to a public offense committed or which there is probable cause to belneve has been committed within the state
(b) Any inspector or investigator regularly employed and paid as such in the office of a district attorney is a peace officer

The authority of any such peace officer extends to any place in the state:
(1) As to any public offense committed, or which there is probable cause to believe has been committed, within the county which employs him ; or
(2) Where he has the prior consent of the chief of police, or person authorized by him to give such consent, if the place is within a city or of the sheriff, or person authorized by him to give such consent, if the place is within a county ; or
(3) As to any public offense committed or which there is probable cause to believe has been committed in his presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of such offense
(c) The Director of the Department of Alcoholic Beverage Control and persons employed by such department for the enforcement of the provisions of Divisson 9 (commencing with Section 23000) of the Business and Professions Code are peace officers, provided, that the primary duty of any such peace officer shall be the enforcement of the laws relat-
ing to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code. Any such peace officer is further authorized to enforce any penal provision of law while, in the course of his employment, he is in, on, or about any premises licensed pursuant to the Alcoholic Beverage Control Act.
(d) The Chief and investigators of the Division of Investigation of the Department of Consumer Affairs, and investigators of the Board of Medical Qualuty Assurance, are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.
(e) Members of the Wildlife Protection Branch of the Department of Fish and Game deputized pursuant to Section 856 of the Fish and Game Code, deputies appointed pursuant to Section 851 of such code, and county fish and game wardens appointed pursuant to Section 875 of such code are peace officers; provided, that the primary duty of deputized members of the Wildife Protection Branch, and the exclusive duty, except as provided in Section 8597 of the Government Code, of any other peace officer listed in this subdivision, shall be the enforcement of the provisions of the Fish and Game Code, as such duties are set forth in Sections 856, 851 and 878, respectively, of such code.
(f) The State Forester and such employees or classes of employees of the Division of Forestry of the Department of Conservation and voluntary firewardens as are designated by hm pursuant to Section 4156 of the Public Resources Code are peace officers, provided. that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of such code
(g) Officers and employees of the Department of Motor Vehicles designated in Section 1655 of the Vehcle Code are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 1655 of such code
(h) The secretary, chief investigator, and racetrack investigators of the California Horse Racing Board are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the provisions of Chapter 4 (commeneing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code Any such peace officer is further authorized to enforce any penal provision of law while, in the course of his employment. he is in. on. or about any horseracing enclosure licensed pursuant to the Horse Racing Law
(1) Police officers of a regional park district, appointed or employed pursuant to Section 5561 of the Public Resources Code, and officers and employees of the Department of Parks and Recreation designated by the director pursuant to Section 5008 of such code are perce officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as such duties are set forth in Sections 5561 and 5008 , respectively, of such code.
(j) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code are perce officers; provided that the primary duty of any such peace officer shall be the enforecment of the law as that duty is set forth in Seetion 13104 of such code
(k) Members of an arson-investigating unit, regularly employed and paid as such, of a fire protection agency of the state, of a county, city, or district, and members of a fire department of a local ageney regularly paid and employed as such, are peace officers, provided, that the primary duty of arson investigators shall be the detection and apprehension of persons who have violated or who are suspected of having violated any fire law, and the exclusive duty, except as provided in Section 8597 of the Government Code, of fire department members other than arson investigators when aeting as peace officers shall be the enforcement of laws relating to fire prevention and fire suppression. Notwithstanding the provisious of Section 171c, 171d, 12027, or 12031, members of fire departments other than arson investrgators are not peace officers for purposes of such sections except when designated as peace officers for such purposes by local ordinance or, if the local agency is not authorized to act by ordonance, by resolution
( $l$ ) The Chief and such inspectors of the Bureau of Food and Drug as are designated by him pursuant to subdivision (a) of Section 216 of the Health and Safety Code are peace officers, provided, that the exclusive duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 216 of such code
( m ) Persons designated by a local agency as park rangers, and regularly employed and paid as such, are peace officers, provided. that the primary duty of any such peace officer shall be the protection of park property and preservation of the peace therein Notwithstanding the provisions of Section 171e, 171d, 12027, or 12031, such park rangers are not peace officers for purposes of such sections except when designated as peace officers for such purposes by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution.
(n) Members of a community college police department appointed pursuant to Section 25429 of the Education Code are peace officers; provided that the primary duty of any such peace officer shall be the enforcement of the law as preseribed in Section 25429 of the Education Code
(o) All investigators of the Division of Labor Law Enforcement, as designated by the Labor Commissioner, are peace officers, provided that the primary duty of any such peace officer shall be enforcement of the lay as prescribed in Section 95 of the Labor Code
( $p$ ) The authority of any peace officer listed in subdivisions (c) through (o), inclusive, extends to any place in the state; provided, that except as otherwise provided in this section, Section 8306 of this code or Section 8597 of the Government Code, any such peace officer shall be deemed a peace officer only for purposes of his primary duty, and shall not act as a peace officer in enforcing any other law except:
(1) When in pursuit of any offender or suspected offender; or
(2) To make arrests for crimes committed, or which there is probable cause to believe have been committed, in his presence while he is in the course of his employment; or
(3) When, while in uniform, such officer is requested, as a peace officer, to render such assistance as is appropriate under the circum. stances to the person making such request, or to act upon his complaint, in the event that no peace officer otherwise authorized to act in such circumstances is apparently and immediately available and capable of rendering such assistance or taking such action."

## Amendment $\theta$

On page 40, line 10, strike out " 1.195 ", and insert " 1.197 '".

## Amendmant 10

On page 40, line 11, strike out " 12.5 and 126 ', and insert ", 105 , and $12.5^{\prime \prime}$.

## set No. 2 <br> Amendment 1

In line 8 of the title of the printed bill, as amended in Assembly September 10, 1975, after "of", insert ", and to add Sections 1085 , 1858.05, and 1858.15 to,".

## Amendment 2

On page 7, line 25, strike out "administrative or judicial proceedings", and insert "judicial proceedings or, at the board's discretion, for any administrative proceedings' ${ }^{\prime}$.

## Amendment 3

On page 14, line 25, after "decision', insert ", but such a failure shall be reported by the division to the Speaker of the Assembly and the President pro Tempore of the Senate within three months'.

## Amendment 4

On page 29, between lines 33 and 34 , insert
"SEC. 1.40. Section 108.5 is added to the Insurance Code, to read:
108.5. "Medical malpractice insurance" means insurance coverage aganst the legal liability of the insured, and aganst loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence or malpractice in rendering professional services by any person who holds a certificate or license issued pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, a lieense issued pursuant to the Osteopathic Initiative Act, or a license as a health facility pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

SEC. 1.43. Section 1858.05 is added to the Insurance Code, to read:
1858.05. Whenever a written complaint and request for hearmg with the commissioner has been fled pursuant to Section 1858. and the complaint concerns medical malpractice insurance, the commissioner shall within 30 days either by order deny the hearing or proceed as provided in Sections 1858.1 or 1858.2. The complainant may petition the court for an order to compel compliance with this section.

SEC. 145. Section 1858.15 is added to the Insurance Code, to read-
1858 15. Once commenced, an examination pursuant to Section 18581 shall be promptly conducted and concluded withm a reasonable time. If the examination is being conducted as the result of a written complaint and request for hearing filed pursuant to Section 1858, and the complaint concerns medical malpractice insurance, the complainant may petition the court for an order to compel compliance with this section."

## Amendment 5

On page 29 , line 34 , strike out " 440 ', ant insert " 4040 ".

## Amendment 6

On page 30, line 9, after the period, insert "Except as provided herein, written agreements evidencing such borrowed money shall not be issued in units of less than ten thousand dolars ( $\$ 10,000$ ) A mutual insurer authorized to transact medical malpractice msurance, as defined by Section 1085 , may issue such written ggreements in units of less than ten thousand dollars ( $\$ 10,000$ ) but only to issuees who are eligible to purchase medical malpractice insurance from the insurer."

## Amendment 7

On page 32, line 8, strike out 'county'", and insert 'region, or upon a finding by the commissioner that some insured licensees are unable to renew outstanding policles of medical malpractice insurance by virtue of an order prohibiting such renewal by an insurer and that said licensees are not reasonably able to obtain needed insurance coverage through normal channels'.

Set No. 3
Amendment 1
On page 21 of the printed bill,-as amended in Assembly September 10, 1975, strike out lines 8 through 13, inclusive; and in line 14, strike out "described in", and insert
"(b) No source of collateral benefits introduced pursuant to".
Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means.

## MESSAGES FROM THE SENATE

Senate Chamher, September 11, 1975
Mr Speaker, I am directed to inform your honorable bidy that the Senate on this day passed.

Sepate Bill No. 21

## DARRIL $\boldsymbol{R}$ WHITF, Secretarv of the Senate <br> B) John W Rovane, Cbief Assistant Necretary

## FIRST READING AND REFERENCE OF SENATE BILLS

The following bill was read the first time, and orderèd held at the Desk:

Senate Bill No. 21-An act to add Section 11917 to, and to add Chapter 5.5 (commencing with Section 11920) to Part 3 of Division 2 of, and to repeal Sections 11927 and 11937 of, the Insurance Code, relating to medical malpractice insurance, and making an appropriation therefor.

## adjournment

At $6 \cdot 56$ p.m., Acting Speaker Foran declared the Assembly adjourned until 9 a.m., Friday, September 12, 1975.

LEO T. McCARTHY, Speaker
ANABEL FLEURY, Minute Clerk

## CALIFORNIA LEGISLATURE

## 1975-76 SECOND EXTRAORDINARY SESSION

## ASSEMBIY DAIIY JOURNAL <br> FIFTY-SIXTH LEGISLATIVE DAY ONE HUNDRED SEVENTEENTH CALENDAR DAY

## In ABEEMBLY

Assembly Chamber, Sacramento Friday, September 12, 1975
The Assembly met at 445 pm .
Hon. Frank Murphy, Jr., Member of the Assembly, 30th District, presiding

Chief Clerk James D Driscoll at the Desk.
Assistant Clerk Ray Monday reading.
ROLL CALL
The roll was called, and the following answered to their names- $\mathbf{7 9}$.

| Alatorre | Collier |
| :--- | :--- |
| Antonovich | Craven |
| Arnett | Cullew |
| Badham | Davis |
| Bane | Deddeh |
| Bannai | Dison |
| Berman | Duffu |
| Beverly | Egeland |
| Boatwright | Fenton |
| Briggs | Foran |
| Brown | Garamendi |
| Burke | Goggin |
| Cnivo | Greene |
| Camphell | Gualco |
| Carpenter | Hart |
| Chacon | Hasden |
| Chappie | Hughes |
| Chel | Ingals |
| Chimbole | Kapiloff |
| Cline | Keene |


| Keymor | Perino |
| :---: | :---: |
| Kuox | Priolo |
| Lancanter | Ralph |
| Lanterman | Robinson |
| Jewns | Rosenthal |
| Lockyer | Suegler |
| MreDonald | Sieroty |
| Mnddy | Suitt |
| McAlister | Thomas, Vincen |
| McTerman | Thomas, Willin |
| MeVittie | Thımın |
| Mpade | Torres |
| Miller | Tucker |
| Mohley | Vasconcellos |
| Montoya | Vicencia |
| Nor | Wrarten |
| Murphy | Wilson |
| Nestande | Wormum |
| Nımmo | Mr. Speaker |
| Papan |  |

Quorum present.

## PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister :
As we end this legislative session we thank You, God, that there were among us those who grappled with issues of major import to the people of our state and did so with success.

We thank You for those who tried but failed, and who are ready to try again in a new day.
Help us to heal any wounds we have opened or remove any barriers we have erected between us.
Help us to go forti from here as people of peace and honor to leave rancor and discord to the scattering winds of autumn -AMEN

## pledge of allegiance to the flag

Upon request of Acting Speaker Murphy, Mr. Badham then led the Assembly in the pledge of allegiance to the Flag.

## READING OF THE JOURNAL DISPENSED WITH

By unanimous consent, reading of the Journal of the previous legislative day was dispensed with.

REEERENCE OF BILLS TO COMMITTEE
Pursuant to the Assembly Rules, the following bill was referred to committee:

Senate
Bill No.
21 No. $\begin{gathered}\text { Committee } \\ \text { Comee, Insurance, and Commerce }\end{gathered}$ AUTHOR'S AMENDMENTS
Committee on Finance, insurance, and Commerce
Assembly C'homber, September 12, 1075
Mr. Speaker: The Chairman of your Committee on Fimance, Insurance, and Commerce reparts:

Senate Bill No. 21
With author's amendments with the recommendation. Amend, and re-refer to the Committee on Finance, Insurance, and Commerce.

Benate Bill so, 21-An act to add Section 11917 to, and to add Chapter 5.5 (commencing with Section 11920) to Part 3 of Division 2 of, and to repeal Sections 11927 and 11937 of, the Insuramee Code. relating to medical malpractice insurance, and making an appropration therefor.

Bill read second time.

## Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment 1
On page 3, line 40 , of the printed bill, as amended in Senate September 9,1975 , strike out "Chapter _-_ of The'"; and on page 4 , line 1 , strike out "1975-76 Second Extraordmary Session" and insert "Section 11925'.

Amendment 2
On page 5 , line 10 , after "written'", insert "in this state".
Amendment 2.5
On page 5 , line 36 , strike aut "meetings", and insert "meeting".
Amandment 3
On page 7, line 10, strike out " 11926 ", and insert "11927".
Amendment 4
On page 7, line 34 , after "association", insert "and shall be appointed by the commissioner' '.

Amanament 4.5
On page 8, line 39, after "by", insert "the'.
Amendments
On page 9 , line 2, after "the", insert "issuance or".

## Amendment 6

On page 9, lines 3 and 4, strike out "lawfully issued or delivered prior to a finding made pursuant to subdivision (a) hereof".

Amendment 7
On page 9 , line 5 , strike ont "renewal, the", and insert "issuance or renewal".

Amendmant 8
On page 9 , strike out lines 6 and 7 ; and on line 8 , strike out "classifications so that".

Amendment 9
On page 9 , line 10 , after " 80 ', insert "issuing or'".

## Amendment 10

On page 10, line 16 , after " premıum", insert a comma.
Amendment 11
On page 11, line 30, strike out "surplus to policyholders', and insert "net direct premium".

## Amandment 12

On page 12, line 27, strike out "surplus to policyholders', and insert 'snet durect premuma'.

## Amendment 13

On page 14 , line 16 , after "made", insert "or actions taken".
Bill ordered reprinted, and to be re-referred to the Committee on Finance, Insurance, and Commerce.

## REPORTS OF STANDING COMMITTEES

## Committee on Ways and Moans

Ansembly Chnmler, Septemher 12, 1975
Mr Spenker Your Committee on Wnzs and Menus reports:
Senate Bill No 4
Senate Bill No 24
With amendments with the recommendation. Amend, and do pass, as amended.
EORAN, Chairman

## REQUEST FOR UNANIMOUS CONSENT TO TAKE UP SENATE BILL NO. 24

Mr. Keene was granted unanimous consent to take up Senate Bill No 24, without reference to file, for the purpose of reading the bill a second time and adopting the committee amendments at this time, and that the bill be returned to the third reading file.

## Second Reading of Sensto Bill No. 24 by Unanimous Consent

genate Bill No. 24 -An act to amend Sections 4040, 11890, 11895, 11896, 11897, 11898, 11900, 11902, 11902 2, 11903, and 11904 of the Insurance Code, relating to medical malpractice insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

Bill read second time.

## Consideration of Committee Amendmente

The following amendments, proposed by the Committee on Ways and Means, were read, and adopted:

## Amendment 1

On page 8, line 7, of the printed bill, as amended in Senate September 11, 1975, strike out 'or', and insert "and".

Bill ordered reprinted, and to be returned to the third reading file.

## REQUEST FOR UNANIMOUS CONSENT TO TAKE UP SENATE BILL NO. 24

Mr Keene asked for unanimous consent to take up Senate Bill No. 24, without reference to file, for purpose of consideration at this time.

Mr. Miller withheld unanimous consent.
Motion to Temporarily Suapend the Rules
Mr. Keene moved that the Rules be temporarily suspended for the purpose of taking up Senate Bill No. 24, without reference to file, for purpose of consideration at this time.

Rules temporarily suspended by the following vote:

| AYES-72 |  |  |  |
| :---: | :---: | :---: | :---: |
| Alatorre | Collier | Keane | Perine |
| Antonovich | Craven | Keysor | Prialo |
| Arnett: | Cullen | Lancaster | Ralph |
| Bannal | Davie | Lanterman | Robinson |
| Berman | Deddeh | Tewn | Rosenthal |
| Beverly | Dryon | Lackser | Siegler |
| Boatwright | Dufty | MracDonald | Steroty |
| Brigga | Egeland | Maddy | Suitt |
| Brown | Fenton | Mcalister | Thomas, Vincent |
| Burke | Garamendi | McLeman | Thomas, William |
| Calvo | Gogrin | Mic Vittre | Tburman |
| Campbell | Greene | Meade | Torres |
| Carpenter | Gualco | Mobley | Tueker |
| Chacon | Hart | Mort | Vasconcellos |
| Ohappie | Hayden | Murphy | Vicencta |
| Chel | Hughes | Nestunde | Whaten |
| Chumbole | Ingalla | Nimmo | Wornum |
| Clune | Kayiloff | Papan | Mr. Speaker |
| NOES-1 |  |  |  |

Miller

## CONAIDERATION OF SENATE EILL NO. 24

Senate Bill Mo. 24 (Behr)-An act to amend Sections 160, 800,804 , $21006,2101,2116.21231,2123$ 2, 21233 3, 2123 9, 2123.10, 2124, 2124.2, 2124.45, 2124 7. 2372, $23725,2454,2456,2458$, and 6146 of, and to add Sections 21017 and 26015 to, the Business and Professions Corle, to amend Sections 3333 I and 33332 of the Civil Code. to amend Sections $3405,364.667 .7$, and 1295 of the Code of Civil Procedure, to amend Seetions 4040. 11588, 11890, 11890. 11896. 11897, 11898, 11900, 11902, 11902 2, 11903, and 11904 of, and to add Sections 108.5, 185805 , and 185815 to, the Insurance Code, and to mmend Section 830.3 of the Penal Code, relating to medical malpractice. and to amend Assembly Bill 1 of the 1975-76 Speond Extraordinary Session making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

Bill read third time, and presented by Mr. Keene.
Urgency Clause
Urgency clanse read, and adopted by the following vote:

| AYES-70 |  |  |  |
| :---: | :---: | :---: | :---: |
| Alatorre | Craren | Keene | Printo |
| Antonovzch | Cullen | Kejsor | Ralph |
| Arnett | Davis | Lancaster | Roventhal |
| Bane | Deddeh | Lanterman | Siegler |
| Bannai | Dixon | Lewis | Sierots |
| Beverly | Duft | Jockser | Surtt |
| Boatwright | Egeland | MacDunald | Thomens, Vinernt |
| Briggs | Fenton | Madil | Thomas, Willinm |
| Rurke | Foran | McAlinter | Thurman |
| Calvo | Guramendi | Melemman | Torres |
| Campbell | Goggin | Mreittie | Tucker |
| Carpenter | Greene | Mobley | Vawencellos |
| Chacon | Gualco | Montoya | Vicencia |
| Chappe | Hart | Mori | Wurrem |
| Chel | Has den | Nurphy | Wornum |
| Chirabole | Hurhes | Nimmo | Mr Spenker |
| Cline | Ingalls | Yapan |  |
| Collter | Kapalof | Perimo |  |
| NOES-4 |  |  |  |
| Miller | Nestande | Robinson | Wilson |

The question being on the passage of the bill.
Bill passed by the following vote:

| AYE8-70 |  |  |  |
| :---: | :---: | :---: | :---: |
| Alatorre | Craven | Keene | Priolo |
| Antonovich | Cullen | Keysor | Ralph |
| Arnett | Davis | Lancaster | Ropentha) |
| Bane | Deddeh | Lenterman | Siegler |
| Bannal | Dixon | Lewas | Sieroty |
| Beverly | Dufy | Lockyer | Suitt |
| Boatwright | Tgeland | MacDonald | Thomas, Vincent |
| Briggs | Frenton | Maddy | Chomas, Wilham |
| Burke | Foran | MeAlister | Thurman |
| Calvo | Garamendi | MeLennan | Torres |
| Camphell | Gogrin | McVittse | Tucker |
| Carpenter | Greene | Mobley | Vasconcellos |
| Chacon | Gualco | Montoya | Vicencia |
| Chappis | Hart | Mort | Warren |
| Chel | Hayden | Murphy | Wornum |
| Chimbole- | Eughes | Nimmo | Mr. Speaker |
| Cline | Ingalls | Papan |  |
| Collier | Kapulofi | Perino |  |
| NOES-4 |  |  |  |
| Miller | Nestande | Robinson | Wilson |

Bill ordered transmitted to the Senate. REQUEST FOR UNANIMOUS CONSENT TO PRINT IN JOURNAL
Mr. Keene was granted unanmous consent that the following Opinfon of Legislative Counsel be printed in the Journal.

Opinion of Legalative Counsel
Sacramento, September 12, 1975
Honorable Art Torres Assembly Chamber

Malpractice - \#19849
Dear Mr. Torres:

## Question

You have asked us whether the provisions of Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, ${ }^{1}$ as enrolled, relating to limitations on damages, modifications of the collateral source rule, changes in the statute of limitations, and regulation of attorney's contingency fee contracts would be applied to causes of actions aceruing, or contracts entered into, prior to the effective date of that bull.

## Opinion

In the very short time available for the preparation of this opinion, we have concluded that the provisions of A B. 1 would apply only to causes of actions accruing, or contracts entered into, after the effective date of A.B. 1 (2nd Ex Sess.) as enrolled, except with respect to those provisions relating to limitations of actions, which would be given limited retroactive effect as stated in the following analysis.

[^3]
## Analysis

Statutes are presumed to be only prospeetive in their operation. and not retroactive, unless a contrary infent is expressly stated or necessarily implied (McBarron v. Kimball (1962), 210 Cal. App. 2d 218). As there is no provision of A.B. 1 that expressly provides that the bill would operate retroactively, that bill would be construed to operate only prospectively.
Hosever, even though a statute is construed only to operate prospectively, a prospective operation which affects procedures or remedies may affect situations that existed prior to the enactment of the statute. Thus. if procedures or remedies are modified by a statute. and if those modifications of procedures affect situations that existed prior to the enaetment of the statute, the statute may be construed to have retroactive effects (Arques v National Suprtior Co (1945), 67 Cal. App. 2d 763) Thus, even though A B, 1 would be construed only to operate prospectively. insofar as A.B. 1 modifies procedures and remedies that affect situations existing prior to its enactment, A.B 1 could be construed to have retroactive effects (see 48 Cal L.R. 216).
The Legislature may validly change rules of civil procedure, or remedies, and such changes may be made applicable to pending actions where the sause of action accrued prior to the change; provided, as stated below, that the change of procedure or modification of remedies does not deprive a person of a substantial right or impair the obligation of contract (County of San Bernardino v. Industrial Accident Commission (1933), 217 (al 618), and so long as a reasonably equivalent remedy remains (Kcrehaff-Cuzner Mill and Lumber Co. v. Olmstead (1890), 85 (al 80).

However, any retroactive application of a statnte that impairs existing obligations of contract is invalid (Brown w. Ferdon (1936), 5 Cal. 2d 227), unless the retroactive application of that statute is a valid exercise of the state's police power. subject to certain limitations ( El Paso v. Simmons (1964), 13 I. Ed. 2d 446, 45.5). In addition, a right to sue for damages is a right that veats when the cause of action arises and it is not within the power of the Legislature to impair such vested right (Werler v. City of Los Anqcles (1952), 110 Cal. App 2d 740). "Where a statute operates immediately to cut off an existing remedy and by retroactive application deprives a person of a vested right, it is ordinarily invalid berause it conficts with the due process clauses of the federal and state constitutions . . " (California Employment Stablization Commission v Payne (1947), 31 Chl. 2 d 210 at 215).

Thus, a statute will not gencrally be applied so as to impair existing obligations of contract, or deprive a person of a vested right by modifying available remedies, without providing reasonably equivalent remedies, or by clanging appliable provedural rules.

AB 1 contains several provisions which may affect contracts or eauses of action that arose prior to its effective date. We have discussed the applicablity of these provisions to such existing causes of action or contracts below.

## LIMITATION OF ACTIONS

A.B. 1 would shorten the time within which an action to which the bill is applicable must be brought.

The general rule with respect to the retroactivity of statutes of limitations is stated in Baldwin v City of San Dıego (1961), 195 Cal App. 2d 236, that while the Legislature may validly shorten the time for the bringing of actions it must as to those causes of action not already barred by an existing limitation allow a reasonable time for the claimant to file his claim or bring his action Where a statute shortening the time within which an action may be commenced cuts off a vested right or allows unreasonable time for the bringing of an action, the courts will permit the action to be brought within such time as may be found reasonable (Day v. Metropolitan Life Ins Co (1936), 11 Cal App. 2d 681, 684 ).

Therefore, the provisions in A B. 1 which would amend Section 3405 of the Code of Civil Procedure to shorten the time for the commencement of those actions to which it is applicable would be applied to existing causes of action (see Security Nat. Bank v. Sortori, 34 Cal. App. 2d 408, 414-415) but would not be applied in such a manner as to defeat those causes of action for professional neghrence for which the prior statute of hmitations had not run at the time of its effective date, but the courts would allow a reasonable time for that action to be brought.

## DAMAGES

A.B. 1 contains two general provisions which would impose limitations on the right of a plaintiff to recover damages Section 33332 of the Code of Civil Procedure, which would be added by A B. 1 would impose an absolute limit upon damages for noneconomic loss. Section 6677 of the Code of Civil Procedure which would be added by A.B. 1 would provide for periodic instaliments for the payment of damages and would establish the method of distribution of the future installments on the death of the judgment creditor

With respect to statutes imposing limitations on damages it was held in the leading case of Lavieri v. Ulysses (1962 Conn), 180 A 2d 632: annotated at 98 A.L.R. 2d 1096, that a statute limiting damages in dram shop actions did not apply retroactively to enuses of action arising prior to the effective date of the statute Lamori has been followed in numerous eases relating to the appleation of statutes modifying damages (see cases collected in 98 A L R 2d 1105, et seq; see also A.LR 2d-later ease service). Only one reported decision has reached a contrary result, and that case involved distingushing facts giving rise to a different rule of statutory construction (Liehter v Scher (1956 III.), 138 N.E. 2 d 66 ).

While Califorma has not expressly ruled on the question, it was held in a closely related case that a statute establishing the rate of interest to be paid in an action for conversion was not to be retroactively applied for the reason that the interest was in the nature of damages (White v. Lyons (1871), 42 Cal 279, 284) Thus, under existing precedent the limitation of damages provisions of A B 1 would not apply to injuries sustamed as the result of medical malpractice to whech the bill is applicable prior to its effective date.

With respect to the provisions in the bill establishing periodic future payments for damages the question is novel and has never been decided

A statute that modifies avalable remedies will be applied to causes of action that arose prior to the effective date of that statute if the new remedy is substantrally equivalent to the remedy that existed when the cause of action arose. In County of San Bernardıno, supra, the statute in force at the time of the injury gave the employer, in an mdustrial aceident case brought by an employee, the right to obtain a lien upon a judgraent or settlement obtaned as a result of the industrial aceident. A statute which became effective before the employee obtamed a recovery from ber employer allowed the employer to be granted a credat to the employer for a judgment or settlement obtained by the employee as a result of the industrial accident. The court beld that although the statute modified existing remedies, the new remedy was equivalent to the remedy that existed when the cause of action arose, and thus, application of the new remedy to a situation that existed before the rew remedy was created did not deprive the employee of a substantal right.

However, the effect of statutes in another comparable situntion, statutes changing the manner and method of distribution of a recovery in a wrongful death action, have been determined by the courts of a number of states.

In In re Dance's Estate (1958 Ill ), 147 N E $2 d 385$ it was held that a statute modifying the method in which damages in a wrongful death action are to be distributed would not be retroactively applied to effect the right of the persons that were entitled to the benefits pror to the enactment of the statute The court reasoned that the rights of those persons became vested at the time the death occurred The rule is generally followed in all jurisdictions (see cases collected in 66 ALR. 2d 1444 ).

The provisions for periodic payments provided by AB 1 may be determined to provide a substantially equivalent remedy to those existing under prior law, in which case they would not affect a substantial right and could be applied to causes of action that arose prior to the effective date of A B 1 However, subdivision (c) of Section 6677 would, upon the death of a judgment creditor (plaintiff) who is entitled to receive periodic payments, permut a court to award remanng damages to a limited class of persons That provision would impar the present right of the judgment ereditor to distribute his estate as he chooses, and of this is determined to be a vested right, that provision would not be applied to affect chuses of action that arose prior to the effective date of AB 1 While this provision could be considered prospective as to aetions acerued prior to the effective date of the bill, since the judgment would be entered after the effective date, such a construction would change the rights of the parties existng at the tme of the accrual of the action. Thus, we think it would be a retroppective mpplication whieh is not expressly or by necessarly implicition called for by the bill.

## COLLATERAL SOURCE RTILES

Sections 245 of AB 1 would add Section 33331 to the Civsl Code. Section 33331 would abrogyte the so-called "colliteral source rule" (see, generally, Helfcnd v. Southern Cal. Rapıd Transt Dist. (1970),

2 Cal. 3d 1), under which evidence of compensation received by the plaintiff for has injuries from a source wholly independent of the tortfeasor is excluded in the negligence action, and allow evidence of such benefits to be introduced in the negligence action In addition, it would prohibit independent sources who provide direct benefits from recovering by way of subrogation in the negligence action the amount paid to the plaintiff unless subrogation is expressly authorized by statute.

Subdivision (a) of Section 3333.1 would provide for the introduction into evidence of benefits received from collateral sources, and thus may serve to reduce damages recovered or received by the plaintiff. It was held in Campbell v. New York Evening Post (1927 N.Y.), 157 N E 153 that a statute authorzing, for libel suits, the introduction into evidence of damages recovered or received by the plantiff from other sources, thereby reducang the damages, could not be applied retroactively. The court based its holdings on the rule that a statute diminishing the luability of the defendant is not to be apphed retrospectively.
Thus, that case indicates that the provisions under consideration, by reducing the amount of damages to which the plantiff would be entitled in the action would fall within the proseription against retroactive application of statutes reducing damages in an action based upon a prior mjury,

As we have noted, California follows the rule that statutes modifying liability are not to be construed retroactively Thus, we are of the view that Campbell would be followed in this state, and that aecordingly the provisions in A B. 1 authorizing the introduction into evidence of collateral source benefits would not be applied retroactively.

Inasmuch as subdivision (b) of Section 3333.1 would provide for the abolition of the subrogation rights of collateral sources, we think the effect of the provision would be to abolish a substantive right Since a statute cannot, ordinarily consigtent with the Constitution, deprive a person of a contractual or vested property right (see Estate of Wellings (1925), 197 Cal. 189, 195), the provision in question could not operate retrospectively to deprive persons of subrogation rights in existence at the time A.B. 1 becomes effective. In this connection we point out that the measure would not affect subrogation rights authorized by statute.
In light of the foregong, it is our view that the provisions of A.B. 1 relative to the collateral source rule would not operate retroactively to causes of action arising before its effective date or to subrogation rights, that were in existence prior to that time.

## ATTORNEY'S FEES

A.B. I would establish limitations on the fees that may be contracted for, or collected by, attorneys in contingeney fee contracts relative to those malpractice actions to which the bill is applicable

As stated above, hoth the federal and state Constitutions contain provisions prohibiting the state from enacting any law impairing the obligations of contracts, unless the interference with the obligations of contracts involves a valid exercise of the police power
On the other hand, licensees in a busiupss already regulated by the state accept such licenses subject to the possibility of further regulation on the same subject matter (Castlcman v. Sculder (1947), 81 Cal App 2d 737; see also Veic v. Suxth Ward Buldıag and Loan Ass' $n$, , 310 U S. 32).

By reducing the amount of the fee to which an attorney is entitled under a contingent fee agreement, the obligation of a contract would be impaired of the statute were applicable to contracts entered into prior to the effective date of A B 1 . However, a statutory construction that would impair existing obligations is not favored, and statutory provisions will not be apphed retroactively so as to impar existing obligations unless the intention of the Legislature demands it (Mc. Kimney v. Ruderman (1962), 203 Cal App 2d 109; Aetna Casualty and Surety Co v. Industrial Accident Commission, 30 Cai 2 d 388 ).

The provisions of A B 1 do not clearly demand the application of its limitations on attorney's fees to those contracts made pror to the effective date of AB 1. Those provisions do prohibit the collection of, as well as contracting for attorney's fees in excess of those lumits, but the limitation on the collection of attorney's fees would, we think, only be related to those contracts entered into after the effective date of A.B. 1 in order to avoid the impairment of existing oblugations.

Very truly yours,

GEORGE H. MURPHY<br>Legislative Counsel<br>By William K Stark<br>Deputy Legislative Counsel

REQUEST FOR UNANIMOUS CONSENT TO TAKE UP SENATE BILL NO. 4
Mr. MeAlister was granted unanimous consent to take up Senate Bill No. 4, without reference to file, for the purpose of reading the bill a second time and adopting the committee amendments at this time.

Second Reading of Senate Bill No. 4 by Unanimous Consent
Senate Bill No. 4-An act to amend Section $40 \pm 0$ of, and to add Sections 108.5, 1858.05, and 1858.15 to, the Insurance Code, relating to medical malpractice msurance, and declaring the urgency thereof, to take effect immeduately.

Bill read second time.

## Consideration of Committee Amendments

The following amendments, proposed by the Committee on Ways and means, were read, and adopted:

## Amendment 1

On page 3, line 40, of the printed bill, as amended in Assembly September 5,1975 , strike out "with respect to $n$ ", and on page 4 , strike out lines 1 through 5 , inclusive, and insert "as provided herein written agreements evidencing such borrowed money shall not be issued in units of less than ten thousand dollars ( $\$ 10.000$ ) A mutual insurer authorzed to transact medical malpractice insurance, as defined by Section 1085 , may issue such written agreements in units of less than ten thousand dollars ( $\$ 10,000$ ) but only to issuees who are elgigible to purchase medical malpractice ansurance from the msurer No commission or promotion expense".

Bill ordered reprinted, and to be returned to the third reading file.

## REQUEST FOR UNANIMOUS CONSENT TO TAKE UP SENATE BILL NO. 4

Mr. McAlister was granted umanimous consent to take up Senate Bill No. 4, without reference to file, for purpose of consideration at this time.

## Consideration of Sonate gill No. 4

Senate Bill No, 4 (Marks)-An act to amend Section 4040 of, and to add Sections $1085,1858.05$, and 185815 to, the Insurance Code, relating to medical malpractice insurance, and declaring the urgency thereof, to take effect immediately.

Blll read third time, and presented by Mr. McAlister.
Urgeney Clause
Urgency clause read, and adopted by the following vote:

| AYES-75 |  |  |  |
| :---: | :---: | :---: | :---: |
| Alatorre | Collier | Keysor | Perino |
| Antonovich | Craven | Knox | Priolo |
| Arnett | Cullen | Lancaster | Ralph |
| Bane | Days | Lanterman | Robrineon |
| Bannai | Deddeh | Lews | Rosenthal |
| Berman | Diton | Lockyer | Siegler |
| Beverly | Duffy | Macllonald | Siproty |
| Boatwright | Egeland | Maddy | Suit |
| Briega | Fentom | Mealister | Thomes, Vincent |
| Brown | Garamends | McLennan | Thomas, Wilham |
| Burke | Gogrin | MicVittue | Thurman |
| Calvo | Greene | Meade | Torres |
| Campbell | Gualco | Miller | Tucker |
| Carpenter | Hart | Mobley | Vnsconcellos |
| Chacon | Hayden | Mori | Vicencia |
| Chapple | Hughes | Murphy | Warren |
| Chel | Ingalls | Nestande | Wornnm |
| Chimbole | Kapiloff | Nimmo | Mr. Speaker |
| Cline | Keene | Papan |  |

The question being on the passage of the bill.
Bill passed by the following vote:

| AYES-75 |  |  |  |
| :---: | :---: | :---: | :---: |
| Alatorre | Collier | Keysor | Perino |
| Antonovich | Graven | Knox | Priolo |
| Arnett | Cullen | Laucaster | Rajuh |
| Bape | Davis | Lanterman | Rolineson |
| Bannai | Deideh | Lewts | Roseuthal |
| Berman | Dison | Leckyer | Stegler |
| Bererly | Duffy | Maclonald | Sieroty |
| Boatwright | Egeland | Mnddy | Sust |
| Briggs | Fenton | Mcahster | Thomns, Yincent |
| Brown | Garamendi | MeLennan | Thomas, Willam |
| Burke | Gogem | McFittie | Thurman |
| Caho | Greene | Meade | Torres |
| Campbell | Gualco | Miller | 'Tucker |
| Carpenter | Hart | Mobley | Vasconcellos |
| Chacon | Has den | Mari | Vicencia |
| Chapple | Hughes | Murphy | Warren |
| Cbel | Iugalls | Nestrane | Wormum |
| Chmbole | Knpuloff | Nimmo | Mr. Speaker |
| Cune | Keene | Papan |  |
| NOES-None |  |  |  |

Bill ordered transmitted to the Senate.

RECESS
At 5:10 p.m., Acting Speaker Murphy declared the Assembly recessed.

## REASSEMBLED

At 10:16 p.m., the Assembly reeonvened.
Hon. Leo T. McCarthy, Speaker of the Assembly, presiding.

## MESSAGES FROM THE SENATE

Senate Chamber, Septemler 12, 1975
Mr. Speaker'-I am directed to inform your honorable body that the Senate on this day concurred in Assembly amendments to:

Senate Bill No. 4
Senate Bill No. 24
DARRYL R WHITE Secretary of the Senate By John W. Rovane, Chief Assistant Secretay

Senate Chamber, September 12, 1975
Mr. Speaker: I am directed to inform your honorable body that the Senate on this day adopted:

Senate Concurrent Resolution No 4
DARRYL R. WHITE, Secretary of the Senate By John W Rovane, Chief Assistant Secretary

## FIRST READING AND REFERENCE OF SENATE BILLS

The following resolution was read:
Senate Concurrent Resolution No. 4-Relative to final adjournment of the 1975-76 Second Extraordinary Session of the Legislature.

REQUEST FOR UNANIMOUS GONSENT TO TAKE UP SENATE CONGURRENT RESOLUTION NO. 4
Speaker MeCarthy was granted unanimous consent to take up Senate Concurrent Resolution No. 4 without reference to committee, print, or file.

Consideration of Senate Concurrent Resolution No. 4
Senate Concurrent Resolution No. 4-Relative to final adjournment of the 1975-76 Second Extraordmary Session of the Legislature

Resolution read, and adopted by the following vote:

| AYES-84 |  |  |  |
| :---: | :---: | :---: | :---: |
| Alatorre | Craven | Kamlort | Priolo |
| Bape | Cullen | Keysor | Ralph |
| Bannal | Davis | Lancaster | Rosenthal |
| Berman | Deddeh | Lauterman | Sipgler |
| Beverly | Divon | Lewis | Sieloty |
| Boatwright | Duffy | Lockjer | Suitt |
| Briggs | Egeland | Maddy | Thomas, Y'ncent |
| Brown | Fenton | Mcyittie | Thomas, Wulaam |
| Burke | Foran | Meade | Tbuman |
| Calvo | Garameudi | Mobley | Torres |
| Campbell | Greene | Montoya | Tucker |
| Carpenter | Gualco | Morl | Yasconcellos |
| Chacon | Hart | Nestande | Vicencia |
| Chappre | Hayden | Nimmo | Wilson |
| Chimbole | Fughes | Papan | Wornum |
| Collier | Ingalls | Perino | Mr Speaker |
| NOES-10 |  |  |  |
| Antonovich | Cline | Knox | Murphy |
| Arnett | Goggin | McAlister | Robinson |
| Chel | Kipene |  |  |
| Resoluti | red transm | the Senat |  |

## VOTE CHANGES

The following Members were granted unanimous consent to record their votes:

On the urgency clause to Senate Bill No. 24, and on the passage of the bill: Messrs. Maddy, Alatorre, Dixon, and Burke, "Aye"; Mr. Torres, "No" to "Aye"; Mr. Mobley, "Aye", Mr. Miller, "No".

REPORTS OF STANDING COMMITTEES
Committee on Health
Assembl, Cuamber, September 12, 1975
Mr Speaker Four Committee on Health reports -
Assembly Bill No 2 Assembly Bill No 13
Assembly Bill No. 6 . Assembly Bill No 31
Without action.
KEENE, Charman
Commitae on Finance, Inturance, and Commerce
Assemilh Chamier, Srptember 12, 1975
Mr Speaker Fonr Committee on Finance, Insulance, and Commeice reports.

Assembly Bill No. 3
Assembly Bull No *
Aswembly Bill No. 16
Without action.

A-sembly Bull No. 20
Assembly Hill No 30
Asbembly Bill No. 34
MeALISTER, Chnirmnn
Assembly Chamber, Neptember 12, 107s
Mr. Speake • Your Committee on Fintnce, Insurauce, and Combretce reports:
Seuate Bill No 21
Without acton.
MeALISTER, Charman
Above bill ordered transmitted to the Senate.

## Committee on Judiciary

Assembly Chamher, Septemher 12, 1975
Mr Speaker Yomr Commitee on Juhtinty reports
Asembly Bill No $7 \quad$ Assembly Bill No 22
Assembly Bill No 9
Assembly Bull No 23
Ascembly $B_{1} l l$ No 11
Assembl! Bill No 24
Assemthy Bill No 14
Assembly Rill No 25
Assembly Rill No 15
Aspembly Bill No 26
Assembly Bill No 17
Assembly Bill No 27
Assembly Bill No. 18
Assembly Bill No, 19
Assembly Hill No. 21
Assembly B1ll No 29
Assembly Bill No 32
Without action.
Assembly Bill No. 33
MILLER, Chnirman
Assembly Chamber, September 12, 1975
Mr. Speaker - Four Committee on Judiciany reports.
Senate Bill No. 1
Senate Bill No. 7
Without action.
Above bills ordered transmitted to the Senate.

## Committee on Rules

Assembly Chamber, September 12, 1975
Mr. Speaker : Your Comindtee on Riules reports:
Senate Concurrent Resolution No. 3
Without action.
Above resolution ordered transmitted to the Senate.
MESBAGES FROM THE SENATE
Senate Chamber, September $1 \overline{5}, 1975$
Mr Speaker: I am directed to infoim your houounble body that the senate returns without further aetion:
$\begin{array}{ll}\text { Assembly Bill No. } 5 & \text { Assembly Hill No } 28 \\ \text { Assembly Bill No. } 12 & \text { Asvembly Bill No } \mathbf{3 5}\end{array}$
Assembly Bill No. 12
DARRIL R WHITE, Stecetary of the Seuste
By John W Rowne, Chaef Assistunt Secretary
BILLS REMAINING ON INACTIVE FILE
The following bill remained on the Inactive File, without further action:

## Assembly Bill No. 4.

## ADJOURNMENT SINE DIE

At 10:18 p.m., pursuant to the provisions of Senate Concurrent Resolution No 4, Speaker McCarthy declared the Assembly adjourned sine die for the 1975-76 Second Extraorduary Session of the Legislature.
LEO T. McCARTHY, Speaker
ANABEL FLEURY, Minute Clerk


[^0]:    NOTE For letter explaining the abmence of Mr Warren mis this das on legislatise business pursuant to the Assemhly Roles, see Aswembly lbals Journal for the Regular Session for Mas 22,1075 . page $\overline{5} \pm 15$

[^1]:    Assembly Bill No. 19: By Assemblyman Camphell—An act to amend Section 340.5 of, and to add Section 3406 to, the Code of Civil Procedure, relatimg to medical malpractice.

[^2]:    Amendment 8.6
    On page 29 , line 8 , after "any", insert "disciplinary".

[^3]:    ${ }^{1}$ Hereinafter referred to as A.B. 1.

