

2009-2010 Legislation

This year the bills we are tracking reflect in many ways the legislature's reaction to the current severe fiscal climate of the state and its failure to enact meaningful health care reform.

The bills also relate to the current broad areas of employment of many of our members who work in psychiatric hospital settings, non-profit agencies, public and community mental health settings, and independent practice. We see budgets getting tighter at the same time caseloads are rapidly growing in all of the settings except independent practice where many therapists and patients struggle with premature termination of therapy for lack of funds. Despite the shrinking economy there continue to be the usual plethora of good and bad bills dealing with confidentiality, privacy, new licenses, and, in one case, intrusive, overly broad government mandates (SB 368).

The Society co-sponsored one bill this year, SB 296 (Lowenthal) which would mandate that health plans which use mental health carveouts provide:

- for consumers and providers a website containing pertinent specific information about provider lists, appeals and complaints
- for consumers, a mental health phone number on their benefits card which would allow the patient to contact the company during and after hours for information, and authorization for care.

As noted in our June report, the devil is always in the details. This year the Governor vetoed almost as many bills as he signed, in some cases you will see a status of inactive, meaning the bill may be dropped or may be active again for next year. Similarly "2 year bill" indicates the bill will be part of the 2010-2011 legislative year.

PROFESSIONS

AB 583 (Hayashi)

Health care practitioners: disclosure of education and office hours

Existing law requires a health care practitioner to disclose, while working, his or her name and practitioner's license status on a name tag in at least 18-point type or to prominently display his or her license in his or her office, except as specified. This bill would require each of those health care practitioners to also display the type of license and, except for nurses, the highest level of academic degree he or she holds either on a name tag in at least 18-point type, in his or her office, or in writing given to patients. The bill would require a physician and surgeon, osteopathic physician and surgeon, and doctor of podiatric medicine who is certified in a medical specialty, as specified, to disclose the name of the certifying board or association either on a name tag in at least 18-point type, in writing given to the patient on the patient's first office visit, or in his or her office. The bill would require a physician and surgeon who supervises an office in addition to his or her primary practice location to conspicuously post in each office a schedule of the regular hours when he or she will be present in that office and the office hours during which he or she will not be present. The bill would also require an office that is part of a group practice with more than one physician and surgeon to post a current schedule of the hours when a physician and surgeon is present. The bill would exempt health care practitioners working in certain licensed laboratories and health care facilities, as specified, from the requirements to disclose license type, highest level of academic degree, and name of certifying board or association providing certification in the practitioner's specialty or subspecialty. **Position: WATCH Status: Inactive File**

AB 657 (Hernandez)

Health professions workforce: master plan

This bill would establish the Health Professions Workforce Task Force composed of specified members, to assist in the development of a health professions workforce master plan for the state, and would prescribe the functions and duties of the task force in that regard. The bill would require the task force to submit a complete statewide health professions workforce master plan to the Legislature. **Position: Support - Vetoed**

AB 681 (Hernandez)**Confidentiality of medical information: psychotherapy**

Existing law prohibits providers of health care, health care service plans, and contractors from releasing medical information to persons authorized by law to receive that information if the information specifically relates to a patient's participation in outpatient treatment with a psychotherapist, unless the requester of the information submits a specified written request for the information to the patient and to the provider of health care, health care service plan, or contractor. However, existing law excepts from those provisions specified disclosures that are made for the purpose of diagnosis or treatment of a patient. This bill would also except from those provisions disclosures that are made to prevent or lessen a serious and imminent threat to the health or safety of a reasonably foreseeable victim or victims. **Position: Support**
Signed by the Governor.

AB 1113 (Lowenthal)**Prisoners: professional mental health providers: marriage and family therapists.**

Existing law requires any person employed or under contract to provide mental health diagnostic or treatment or other mental health services in the state correctional system to be a physician and surgeon, psychologist, or other health professional, licensed to practice in this state, except as specified. This licensure requirement may be waived in order for a person to gain qualifying experience for licensure as a psychologist or clinical social worker in this state. This bill would also authorize the waiver for a person to gain qualifying experience for licensure as a marriage and family therapist. The bill would provide that a person gaining qualifying experience for licensure as a marriage and family therapist is limited to working within his or her scope of practice. **Position: Watch** **Status: Signed by the Governor**

SB 33 (Correa)**Marriage and family therapy: licensure and registration.**

Existing law provides for the licensure or registration and regulation of marriage and family therapists and interns by the Board of Behavioral Sciences and requires that applicants for licensure or registration, among other requirements, possess a doctor's or master's degree from a specified school, college, or university, containing no less than 48 semester or 72 quarter units of instruction in specified areas. Existing law requires that the doctor's or master's degree program contain no less than 6 semester or 9 quarter units of supervised practicum, as specified, and requires that the practicum include a minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups. Existing law also requires the degree program to satisfy certain criteria in order to meet the educational qualifications for licensure. This bill would limit the application of these requirements to applicants for licensure or registration who begin graduate study before August 1, 2012, and would impose additional requirements on applicants who do not complete that study on or before December 31, 2018, on applicants who graduate from a degree program that meets those requirements, and on those who begin graduate study on or after August 1, 2012. The bill would require that these applicants, among other things, possess a doctor's or master's degree containing no less than 60 semester or 90 quarter units of instruction in certain areas, including, but not limited to, co-occurring disorders, multicultural development and cross-cultural interaction, and the effects of socioeconomic status on treatment and available resources, as specified. The bill would require that these units include 6 semester or 9 quarter units of practicum that provides training in specified areas and includes a minimum of 225 hours of face-to-face experience counseling individuals, couples, families, or groups. The bill would additionally, with respect to these applicants, revise the requirements needed for the degree program to meet the educational qualifications for licensure, as

specified. **Position: Watch Status: Signed by the Governor**

**SB 294 (Negrete
McLeod)**

Healing arts.

Existing law provides for the regulation of healing arts licensees by various boards within the Department of Consumer Affairs. The department is under the control of the Director of Consumer Affairs. This bill would additionally require specified healing arts boards to disclose on the Internet information on their respective licensees. **Position: Oppose Status: Inactive (Hopefully dead)**

SB 368 (Maldonado)

Confidential medical information: unlawful disclosure

Existing law, the Confidentiality of Medical Information Act, generally prohibits the unlawful disclosure of confidential patient information, sets forth criminal and civil penalties for prescribed violations, and authorizes prescribed persons to bring enforcement actions. This bill would authorize the office to audit the procedures and records of a provider of health care at any time to determine the provider's compliance with the Confidentiality of Medical Information Act. **Position: Watch/Oppose Status: 2 year bill**

SB 543 (Leno)

Minors: consent to mental health treatment

Existing law authorizes a minor who is 12 years of age or older to consent to mental health treatment or counseling, except as specified, on an outpatient basis, or to residential shelter services, as specified. This bill would, notwithstanding any provision of law, instead, provide that a minor who is 12 years of age or older may consent to outpatient mental health services, if, in the opinion of the professional person, as defined, the minor is mature enough to participate intelligently in the mental health treatment or counseling services. The bill would expand the definition of a professional person to include a licensed clinical social worker, as specified, and a board certified or board eligible psychiatrist. **Position: Support Status: Inactive – Possible 2 year bill**

**SB 674 (Negrete
McLeod)**

Healing arts

Existing law provides for the licensure and regulation of various healing arts practitioners and requires certain of those practitioners to use particular designations following their names in specified instances. Existing law provides that it is unlawful for healing arts licensees to disseminate or cause to be disseminated any form of public communication, as defined, containing a false, fraudulent, misleading, or deceptive statement, claim, or image to induce the rendering of services or the furnishing of products relating to a professional practice or business for which he or she is licensed. Existing law authorizes advertising by these healing arts licensees to include certain general information. A violation of these provisions is a misdemeanor. This bill would require certain healing arts licensees to include in advertisements, as defined, certain words or designations following their names indicating the particular educational degree they hold or healing art they practice, as specified. By changing the definition of a crime, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws. **Position: Watch/Oppose Status – Vetoed**

SB 707 (DeSaulnier)

Alcohol and other drug counselor licensing certification

Existing law provides for the licensure, registration, and certification of the various healing arts professionals, including, but not limited to, setting forth the scope of practice, establishing the regulatory boards, department, or bureaus, and setting forth the powers and duties of these entities. This bill would establish similar licensure, registration, and certification provisions relating to alcohol and other drug counselors to be administered by the State Department of Alcohol and Drug Programs, and would authorize the department to commence issuing these licenses, registrations, and certificates on January 1, 2012. The bill would make a violation of these provisions a crime. The bill would authorize the department to assess related fees, and would require deposit of the fees into the Alcohol and Other Drug Counselor License Fund, which the bill would establish for expenditure for the purposes of this bill, upon appropriation by the Legislature. The author has invited all stakeholders including the Society to continue to meet to resolve differences. **Position: Opposed unless amended**
Status: 2 year bill

SB 788 (Wyland)

Licensed professional clinical counselors

This bill would provide for the licensure, registration, and regulation of licensed professional clinical counselors and interns by the board and would add 2 additional members to the BBS, to be appointed by the Governor, as specified. The bill would enact various provisions concerning the practice of licensed professional clinical counselors, interns, and clinical counselor trainees, including, but not limited to, practice requirements and enforcement specifications. The bill would authorize the board to begin accepting applications for intern registration on January 1, 2011, and for licensure examination eligibility on January 1, 2012, but would authorize the board to issue licenses to individuals meeting certain criteria who apply between January 1, 2011, and June 30, 2011. The bill would authorize the board to impose specified fees on licensed professional clinical counselors and interns, which would be deposited in the Behavioral Sciences Fund to carry out the provisions of the bill. The bill would require that the startup costs of the program be funded by a loan from the Behavioral Sciences Fund, upon appropriation by the Legislature. The bill would provide that a violation of its provisions is a misdemeanor. By creating a new crime, the bill would impose a state-mandated local program. [See expanded article in this newsletter.] **Position: Watch** **Status: Signed by the Governor**

HEALTH CARE

AB 119 (Jones)

Health care coverage: gender pricing

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of that act a crime. Existing law prohibits health care service plans from charging premium, price, or charge differentials because of sex, but makes an exception for differentials based on specified statistical and actuarial data. This bill would eliminate that exception with respect to contracts issued, amended, or renewed on or after January 1, 2011. **Position: Support** **Status: Signed by the Governor**

AB 722 (Lowenthal, Bonnie)

Preexisting conditions.

This bill would prohibit an individual health care service plan contract or health insurance policy from denying coverage to, or excluding coverage for, an enrollee or insured due to a preexisting condition provision or otherwise, as specified, due to a mental or physical condition that is not

life threatening nor chronic or severe, that is not considered to be a present condition at the time of enrollment, and for which the enrollee or insured has not received treatment for the past 12 months. **Position: Support Status: 2 year bill**

AB 786 (Jones)

Individual health care coverage: coverage choice categories.

This bill would require individual health care service plan contracts and individual health insurance policies issued, amended, or renewed on or after January 1, 2011, to contain a maximum limit on out-of-pocket costs for covered benefits provided by in-network providers and for covered emergency services, as specified. The bill would require, by July 1, 2012, the Department of Managed Health Care and the Department of Insurance to jointly, by regulation, develop standard definitions and terminology for benefits and cost-sharing provisions applicable to individual contracts and policies, as specified, and to develop a system to categorize those contracts and policies into coverage choice categories that meet specified requirements. The bill would require plans and insurers to submit certain information to the departments by a specified date and would require the Director of the Department of Managed Health Care and the Insurance Commissioner to categorize the contracts and policies into the appropriate coverage choice category by a specified date. The bill would require the Office of Patient Advocate to develop and maintain on its Internet Web site a uniform benefits matrix of those contracts and policies arranged by coverage choice category along with other specified information. The bill would require health care service plans, health insurers, solicitors, solicitor firms, brokers, and agents to make prospective enrollees or insureds aware of the availability and contents of the benefits matrix when marketing or selling a contract or policy in the individual market. The aim is to allow consumers to compare plan features in an understandable terminology. **Position: Support Status: Inactive may be a 2 year bill.**

AB 1540 (Committee on Health)

Health

Existing law, the California Public Records Act, requires certain public records to be made available for public inspection. This bill would provide, with respect to the above provisions, that patient medical record numbers and any other data elements that the office believes could be used to determine the identity of an individual patient shall be exempt from the disclosure requirements of the California Public Records Act. **Position: Support Status: Signed by the Governor**

SB 316 (Alquist)

Health care coverage: benefits

This bill would require full service health care service plans and health insurers to expend on health care benefits no less than 85% of the aggregate dues, fees, premiums, and other periodic payments they receive with respect to plan contracts or policies issued, amended, or renewed on or after January 1, 2013. The bill would authorize those plans and insurers to assess compliance with this requirement by averaging their total costs across all plan contracts or insurance policies issued, amended, or renewed by them and their affiliated plans and insurers in California, except as specified. The bill would require those plans and insurers to annually, commencing January 1, 2013, provide written affirmation of compliance with the bill's requirements to the Department of Managed Health Care or the Department of Insurance, and would also require those plans and insurers to annually, commencing January 1, 2013, report to the Director of the Department of Managed Health Care or the Insurance Commissioner the medical loss ratio of each individual and small group health care service plan product

and health insurance policy form issued, amended, or renewed in California and to report the ratio when presenting a plan for examination or sale to any individual or group consisting of 50 or fewer individuals.

Position: Support Status: 2 year bill

SB 810 (Leno)

Single-payer health care coverage.

This bill would establish the California Healthcare System to be administered by the newly created California Healthcare Agency under the control of a Healthcare Commissioner appointed by the Governor and subject to confirmation by the Senate. The bill would make all California residents eligible for specified health care benefits under the California Healthcare System, which would, on a single-payer basis, negotiate for or set fees for health care services provided through the system and pay claims for those services. The bill would provide that a resident of the state with a household income, as specified, at or below 200% of the federal poverty level would be eligible for the type of benefits provided under the Medi-Cal program. The bill would require the commissioner to seek all necessary waivers, exemptions, agreements, or legislation to allow various existing federal, state, and local health care payments to be paid to the California Healthcare System, which would then assume responsibility for all benefits and services previously paid for with those funds. **Position: Support Status: 2 year bill**

MENTAL HEALTH

AB 235 (Hayashi)

Emergency services and care

Existing law defines emergency services and care to include additional screening, examination, and evaluation by a physician, or other personnel to the extent permitted by applicable law and within the scope of their licensure and clinical privileges, to determine if a psychiatric emergency medical condition exists, as provided. This bill would define psychiatric emergency medical condition, and would, for this purpose, include admission or transfer to a psychiatric unit within a general acute care hospital or to an acute psychiatric hospital within the care and treatment of this condition. **Position: Support Status: Signed by the Governor**

AB 244 (Beall)

Mental health parity

This bill would expand this coverage requirement for certain health care service plan contracts and health insurance policies issued, amended, or renewed on or after January 1, 2010, to include the diagnosis and treatment of a mental illness of a person of any age and would define mental illness for this purpose as a mental disorder defined in the Diagnostic and Statistical Manual IV. The bill would specify that this requirement does not apply to a health care benefit plan, contract, or health insurance policy with the Board of Administration of the Public Employees' Retirement System unless the board elects to purchase a plan, contract, or policy that provides mental health coverage. The Governor insists this bill would cost too much despite ample studies to the contrary! **Position: Support Status: Vetoed**

AB 710 (Yamada)

Veterans: substance abuse and mental health services

Existing law provides benefits for state military veterans. This bill would require the Department of Veterans Affairs to consult with the State Department of Mental Health and the State Department of Alcohol and Drug Programs, as provided, to identify federal funds that are available for the purposes of funding community-based organizations, certified by the department, to provide substance abuse and mental health services

to veterans , as specified, and to pay reasonable administrative expenses. **Position: Support** **Status: 2year bill**

SB 296 (Lowenthal)

Mental health services

This bill would, on and after July 1, 2011, require every health care service plan, including a specialized health care service plan, and health insurer that provides professional mental health services to issue an identification card, as specified, to each enrollee in order to assist the enrollee with accessing mental health benefits coverage information and other information. The bill would require the identification card to be issued upon enrollment or commencement of coverage or upon any change in the enrollee's coverage that impacts the data content or format of the card. The bill would also require those plans and insurers to provide, on or before January 1, 2012, specified information on their Internet Web sites, to be updated as specified and made available in hard copy upon request, and would require those insurers to establish Internet Web sites for that purpose. The bill would exempt from those requirements specified plans or insurers that contract with another entity to provide coverage for mental health services, provided that the plan or insurer provides a link on its Internet Web site to the entity's Internet Web site and that entity complies with the above-described information requirements. The bill would also require the departments to include on their Internet Web sites a link to the Internet Web site of each of those plans or insurers. The bill mandates provision of appeals and complaint information or links on plan websites, as well as updated lists of providers. **Position: Co-sponsor** **Status: Signed by the Governor**

IDENTITY THEFT

SB 40 (Correa)

Personal information: social security numbers

Existing law requires any person, entity, or government agency that is presenting a document for recording or filing with a county recorder to only list the last 4 digits of a social security number. Existing law also requires a county recorder to use due diligence to truncate social security numbers in the public record version of official records. This bill would provide that a document containing more than the last 4 digits of a social security number is not entitled for recording. This bill would also provide that a recorder shall be deemed to be in compliance if he or she uses due diligence to truncate social security numbers in documents recorded, as provided. **Position: Support** **Status: Signed by the Governor**

MEDI-CAL

AB 217 (Beall)

Medi-Cal: alcohol and drug screening and brief intervention services

Voluntary alcohol and drug screening and brief intervention for pregnant women or women of child bearing age. **Position: Support** **Status: Vetoed**

AB 754 (Chesbro)

Medi-Cal: mental health plans

Existing law provides for the Medi-Cal program, administered by the State Department of Health Care Services, under which qualified low-income persons are provided with health care services, including mental health services. The Medi-Cal program is partially governed and funded under federal Medicaid provisions. This bill would, beginning July 1, 2011, exclude the Early Periodic Screening Diagnosis and Treatment (EPSDT) specialty mental health services provided under a Medi-Cal

specialty mental health services waiver from being allocated and distributed at the beginning of the contract period. **Position: Support**
Status: 2 year bill

AB1541 (Committee on Health) **Health care coverage**

The federal Children's Health Insurance Program Reauthorization Act of 2009, requires a group health plan to permit an eligible person to enroll for coverage under the plan if the person's coverage under Medicaid or under a state child health plan was terminated, as specified, and the person applies for coverage under the group health plan not later than 60 days after that termination. This bill would define late enrollee to exclude an individual, or dependent, who has lost or will lose Healthy Families Program coverage, Access for Infants and Mothers Program coverage, or Medi-Cal program coverage and who requests enrollment within 60 days after termination of that coverage. **Position: Support**
Status: Signed by the Governor

CHILD WELFARE

AB 82 (Evans)

Dependent children: psychotropic medications

This bill would, in a pilot project operative only until January 1, 2013, in 3 counties that are selected by the State Department of Social Services in consultation with the Judicial Council and 2 other specified entities, expand the authority of a juvenile court judicial officer to make orders regarding the administration of psychotropic medications to include a dependent child or ward who has been removed from the physical custody of his or her parent or guardian, or a child who has been removed from the physical custody of a parent or guardian pending adjudication as a dependent child. The pilot project would require the physician submitting the request for psychotropic medication to have conducted an examination of the child or ward. The pilot project would require the request to indicate additional information, including the child's medical history and a description of any clinically indicated therapy recommended for the child to participate in during the 6-month period until the next court review of the psychotropic medication. The pilot project would require the juvenile court judicial officer, before authorizing the administration of psychotropic medication, to make certain findings, including that the child's or ward's caregiver has been informed, and the child or ward has been informed in an age and developmentally appropriate manner, about the recommended medications, the anticipated benefits, the nature, degree, duration, and probability of side effects and significant risks, and any other recommended treatments, that the child or ward has been informed of the right to request a hearing, and that a plan is in place for regular monitoring of the medication. **Position: Watch** **Status: Vetoed**

AB 295 (Ammiano)

Children: adoption services

Existing law requires, upon appropriation by the Legislature of funds for this purpose, that the State Department of Social Services establish a 3-year project in 4 counties, including San Francisco and Los Angeles Counties, and one state district office, and further requires that funding to those counties from appropriations in the annual Budget Act be used to provide funding for preadoption and postadoption services to ensure the successful adoption of a targeted population of children who have been in foster care 18 months or more. Existing law requires the department to work with counties to develop requirements for the project, and to provide information on the results of the project to the Legislature, by November 30, 2010. This bill would extend the availability of funds appropriated for the specified adoption activities to June 30, 2010, and would also extend the date for the department to

provide the related information to the Legislature to May 31, 2011.

Position: Support Status: Signed by the Governor

AB 421 (Beall)

Seriously emotionally disturbed children: out-of-home placement

Existing law requires payments, issued by county welfare departments, for 24-hour out-of-home care to be provided on behalf of any seriously emotionally disturbed child who has been placed out of home pursuant to an individualized education program (IEP) developed under a specified provision of existing law. Existing law restricts payments for this purpose to children placed in privately operated residential facilities licensed in accordance with the California Community Care Facilities Act. This bill, until January 1, 2013, would authorize these payments to be made to an out-of-state privately owned residential facility that meets applicable licensing requirements, and that is organized and operated on a for-profit basis, if specified conditions are met. The bill would require the State Department of Mental Health, in collaboration with the California Mental Health Directors Association, to provide prescribed information to the Legislature regarding the out-of-home placement of seriously emotionally disturbed children. **Position: Support**
Status: 2 year bill

AB 886 (Garrick)

Mandated child abuse reporting: library employees

Existing law requires certain persons specified as "mandated reporters" to report suspected child abuse or child neglect, as specified, and provides that failure to report as required is an offense. This bill would include employees in public libraries as mandated reporters, for purposes of reporting the use of computers in public libraries, discovered in the course of their duties, to access, on the Internet or from other sources, any material that would constitute depictions of sexual exploitation. **Position: Support Status: 2 year bill**

SB 118 (Liu)

Incarcerated parents

This bill would require that a case plan include specified information, to the extent possible, about a parent's incarceration in determining the reasonable services to be offered or provided to that parent's children. The bill would also require social workers to make reasonable efforts to collect and update necessary data regarding a child's incarcerated parent or parents, once a consistent data entry field or fields have been designated in the statewide child welfare database. By expanding the duties of county officials, this bill would impose a state-mandated local program. **Position: Support Signed: Signed by the Governor**