

AMENDMENTS TO ASSEMBLY BILL NO. 1102
AS AMENDED IN SENATE AUGUST 16, 2022

Amendment 1

In the heading, in line 1, strike out “Low” and insert:

Cooley

Amendment 2

In the title, strike out lines 1 and 2 and insert:

An act to amend Section 1798.145 of the Civil Code, and to add and repeal Part 5.6 (commencing with Section 1520) to Division 2 of the Labor Code, relating to privacy.

Amendment 3

On page 2, before line 1, insert:

SECTION 1. (a) The Legislature hereby finds and declares all of the following:

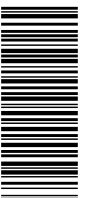
(1) California workers deserve privacy protections tailored to the employment context as opposed to the relationship that exists between consumers and businesses.

(2) The Legislature, as well as advocates representing both workers and businesses, continues to engage in discussions concerning the enactment of robust and implementable privacy protections tailored to the employment context, but additional time is required to enact these protections.

(3) The California Consumer Privacy Act of 2018 (CCPA) granted consumers various rights with regard to their personal information. The California Privacy Rights Act of 2020 (CPRA), approved by the voters as Proposition 24 at the November 3, 2020, statewide general election, amended, added to, and reenacted the CCPA, while also recognizing that the various rights granted to consumers under the CCPA and the CPRA are ill-suited to the employment context. Accordingly, the CPRA reenacted and extended provisions in the CCPA clarifying that the CPRA does not apply to personal information collected by a business about a natural person in the course of the natural person acting within the employment context, including emergency contact information, information necessary to administer benefits, or information collected in the course of business to business communications or transactions.

(4) The aforementioned provisions in the CCPA, and the CPRA’s subsequent extension of those provisions, are consistent with the stated purposes of the CPRA, which stipulate that the privacy interests of employees and independent contractors should be protected, taking into account the differences in the relationship between employees or independent contractors and businesses, as compared to the relationship between consumers and businesses.

(b) Therefore, it is the intent of the Legislature to promote privacy protections for employees by extending the aforementioned provisions to provide adequate time



for the development of robust and implementable privacy protections tailored to the employment context, while providing temporary protections around worker monitoring.

SEC. 2. Section 1798.145 of the Civil Code, as amended by Chapter 700 of the Statutes of 2021, is amended to read:

1798.145. Exemptions

(a) The obligations imposed on businesses by this title shall not restrict a business' ability to:

(1) Comply with federal, state, or local laws or comply with a court order or subpoena to provide information.

(2) Comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by federal, state, or local authorities. Law enforcement agencies, including police and sheriff's departments, may direct a business pursuant to a law enforcement agency-approved investigation with an active case number not to delete a consumer's personal information, and, upon receipt of that direction, a business shall not delete the personal information for 90 days in order to allow the law enforcement agency to obtain a court-issued subpoena, order, or warrant to obtain a consumer's personal information. For good cause and only to the extent necessary for investigatory purposes, a law enforcement agency may direct a business not to delete the consumer's personal information for additional 90-day periods. A business that has received direction from a law enforcement agency not to delete the personal information of a consumer who has requested deletion of the consumer's personal information shall not use the consumer's personal information for any purpose other than retaining it to produce to law enforcement in response to a court-issued subpoena, order, or warrant unless the consumer's deletion request is subject to an exemption from deletion under this title.

(3) Cooperate with law enforcement agencies concerning conduct or activity that the business, service provider, or third party reasonably and in good faith believes may violate federal, state, or local law.

(4) Cooperate with a government agency request for emergency access to a consumer's personal information if a natural person is at risk or danger of death or serious physical injury provided that:

(A) The request is approved by a high-ranking agency officer for emergency access to a consumer's personal information.

(B) The request is based on the agency's good faith determination that it has a lawful basis to access the information on a nonemergency basis.

(C) The agency agrees to petition a court for an appropriate order within three days and to destroy the information if that order is not granted.

(5) Exercise or defend legal claims.

(6) Collect, use, retain, sell, share, or disclose consumers' personal information that is deidentified or aggregate consumer information.

(7) Collect, sell, or share a consumer's personal information if every aspect of that commercial conduct takes place wholly outside of California. For purposes of this title, commercial conduct takes place wholly outside of California if the business collected that information while the consumer was outside of California, no part of the sale of the consumer's personal information occurred in California, and no personal information collected while the consumer was in California is sold. This paragraph shall not prohibit a business from storing, including on a device, personal information

about a consumer when the consumer is in California and then collecting that personal information when the consumer and stored personal information is outside of California.

(b) The obligations imposed on businesses by Sections 1798.110, 1798.115, 1798.120, 1798.121, 1798.130, and 1798.135 shall not apply where compliance by the business with the title would violate an evidentiary privilege under California law and shall not prevent a business from providing the personal information of a consumer to a person covered by an evidentiary privilege under California law as part of a privileged communication.

(c) (1) This title shall not apply to any of the following:

(A) Medical information governed by the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1) or protected health information that is collected by a covered entity or business associate governed by the privacy, security, and breach notification rules issued by the United States Department of Health and Human Services, Parts 160 and 164 of Title 45 of the Code of Federal Regulations, established pursuant to the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191) and the Health Information Technology for Economic and Clinical Health Act (Public Law 111-5).

(B) A provider of health care governed by the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1) or a covered entity governed by the privacy, security, and breach notification rules issued by the United States Department of Health and Human Services, Parts 160 and 164 of Title 45 of the Code of Federal Regulations, established pursuant to the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), to the extent the provider or covered entity maintains patient information in the same manner as medical information or protected health information as described in subparagraph (A) of this section.

(C) Personal information collected as part of a clinical trial or other biomedical research study subject to, or conducted in accordance with, the Federal Policy for the Protection of Human Subjects, also known as the Common Rule, pursuant to good clinical practice guidelines issued by the International Council for Harmonisation or pursuant to human subject protection requirements of the United States Food and Drug Administration, provided that the information is not sold or shared in a manner not permitted by this subparagraph, and, if it is inconsistent, that participants be informed of that use and provide consent.

(2) For purposes of this subdivision, the definitions of “medical information” and “provider of health care” in Section 56.05 shall apply and the definitions of “business associate,” “covered entity,” and “protected health information” in Section 160.103 of Title 45 of the Code of Federal Regulations shall apply.

(d) (1) This title shall not apply to an activity involving the collection, maintenance, disclosure, sale, communication, or use of any personal information bearing on a consumer’s creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living by a consumer reporting agency, as defined in subdivision (f) of Section 1681a of Title 15 of the United States Code, by a furnisher of information, as set forth in Section 1681s-2 of Title 15 of the United States Code, who provides information for use in a consumer report, as defined in subdivision (d) of Section 1681a of Title 15 of the United States Code, and by a user of a consumer report as set forth in Section 1681b of Title 15 of the United States Code.

(2) Paragraph (1) shall apply only to the extent that such activity involving the collection, maintenance, disclosure, sale, communication, or use of such information by that agency, furnisher, or user is subject to regulation under the Fair Credit Reporting Act, Section 1681 et seq., Title 15 of the United States Code and the information is not collected, maintained, used, communicated, disclosed, or sold except as authorized by the Fair Credit Reporting Act.

(3) This subdivision shall not apply to Section 1798.150.

(e) This title shall not apply to personal information collected, processed, sold, or disclosed subject to the federal Gramm-Leach-Bliley Act (Public Law 106-102), and implementing regulations, or the California Financial Information Privacy Act (Division 1.4 (commencing with Section 4050) of the Financial Code), or the federal Farm Credit Act of 1971 (as amended in 12 U.S.C. 2001-2279cc and implementing regulations, 12 C.F.R. 600, et seq.). This subdivision shall not apply to Section 1798.150.

(f) This title shall not apply to personal information collected, processed, sold, or disclosed pursuant to the Driver's Privacy Protection Act of 1994 (18 U.S.C. Sec. 2721 et seq.). This subdivision shall not apply to Section 1798.150.

(g) (1) Section 1798.120 shall not apply to vehicle information or ownership information retained or shared between a new motor vehicle dealer, as defined in Section 426 of the Vehicle Code, and the vehicle's manufacturer, as defined in Section 672 of the Vehicle Code, if the vehicle information or ownership information is shared for the purpose of effectuating, or in anticipation of effectuating, a vehicle repair covered by a vehicle warranty or a recall conducted pursuant to Sections 30118 to 30120, inclusive, of Title 49 of the United States Code, provided that the new motor vehicle dealer or vehicle manufacturer with which that vehicle information or ownership information is shared does not sell, share, or use that information for any other purpose.

(2) Section 1798.120 shall not apply to vessel information or ownership information retained or shared between a vessel dealer and the vessel's manufacturer, as defined in Section 651 of the Harbors and Navigation Code, if the vessel information or ownership information is shared for the purpose of effectuating, or in anticipation of effectuating, a vessel repair covered by a vessel warranty or a recall conducted pursuant to Section 4310 of Title 46 of the United States Code, provided that the vessel dealer or vessel manufacturer with which that vessel information or ownership information is shared does not sell, share, or use that information for any other purpose.

(3) For purposes of this subdivision:

(A) "Ownership information" means the name or names of the registered owner or owners and the contact information for the owner or owners.

(B) "Vehicle information" means the vehicle information number, make, model, year, and odometer reading.

(C) "Vessel dealer" means a person who is engaged, wholly or in part, in the business of selling or offering for sale, buying or taking in trade for the purpose of resale, or exchanging, any vessel or vessels, as defined in Section 651 of the Harbors and Navigation Code, and receives or expects to receive money, profit, or any other thing of value.

(D) "Vessel information" means the hull identification number, model, year, month and year of production, and information describing any of the following

equipment as shipped, transferred, or sold from the place of manufacture, including all attached parts and accessories:

(i) An inboard engine.

(ii) An outboard engine.

(iii) A stern drive unit.

(iv) An inflatable personal floatation device approved under Section 160.076 of Title 46 of the Code of Federal Regulations.

(h) Notwithstanding a business' obligations to respond to and honor consumer rights requests pursuant to this title:

(1) A time period for a business to respond to a consumer for any verifiable consumer request may be extended by up to a total of 90 days where necessary, taking into account the complexity and number of the requests. The business shall inform the consumer of any such extension within 45 days of receipt of the request, together with the reasons for the delay.

(2) If the business does not take action on the request of the consumer, the business shall inform the consumer, without delay and at the latest within the time period permitted of response by this section, of the reasons for not taking action and any rights the consumer may have to appeal the decision to the business.

(3) If requests from a consumer are manifestly unfounded or excessive, in particular because of their repetitive character, a business may either charge a reasonable fee, taking into account the administrative costs of providing the information or communication or taking the action requested, or refuse to act on the request and notify the consumer of the reason for refusing the request. The business shall bear the burden of demonstrating that any verifiable consumer request is manifestly unfounded or excessive.

(i) (1) A business that discloses personal information to a service provider or contractor in compliance with this title shall not be liable under this title if the service provider or contractor receiving the personal information uses it in violation of the restrictions set forth in the title, provided that, at the time of disclosing the personal information, the business does not have actual knowledge, or reason to believe, that the service provider or contractor intends to commit such a violation. A service provider or contractor shall likewise not be liable under this title for the obligations of a business for which it provides services as set forth in this title provided that the service provider or contractor shall be liable for its own violations of this title.

(2) A business that discloses personal information of a consumer, with the exception of consumers who have exercised their right to opt out of the sale or sharing of their personal information, consumers who have limited the use or disclosure of their sensitive personal information, and minor consumers who have not opted in to the collection or sale of their personal information, to a third party pursuant to a written contract that requires the third party to provide the same level of protection of the consumer's rights under this title as provided by the business shall not be liable under this title if the third party receiving the personal information uses it in violation of the restrictions set forth in this title provided that, at the time of disclosing the personal information, the business does not have actual knowledge, or reason to believe, that the third party intends to commit such a violation.

(j) This title shall not be construed to require a business, service provider, or contractor to:

(1) Reidentify or otherwise link information that, in the ordinary course of business, is not maintained in a manner that would be considered personal information.

(2) Retain any personal information about a consumer if, in the ordinary course of business, that information about the consumer would not be retained.

(3) Maintain information in identifiable, linkable, or associable form, or collect, obtain, retain, or access any data or technology, in order to be capable of linking or associating a verifiable consumer request with personal information.

(k) The rights afforded to consumers and the obligations imposed on the business in this title shall not adversely affect the rights and freedoms of other natural persons. A verifiable consumer request for specific pieces of personal information pursuant to Section 1798.110, to delete a consumer's personal information pursuant to Section 1798.105, or to correct inaccurate personal information pursuant to Section 1798.106, shall not extend to personal information about the consumer that belongs to, or the business maintains on behalf of, another natural person. A business may rely on representations made in a verifiable consumer request as to rights with respect to personal information and is under no legal requirement to seek out other persons that may have or claim to have rights to personal information, and a business is under no legal obligation under this title or any other provision of law to take any action under this title in the event of a dispute between or among persons claiming rights to personal information in the business' possession.

(l) The rights afforded to consumers and the obligations imposed on any business under this title shall not apply to the extent that they infringe on the noncommercial activities of a person or entity described in subdivision (b) of Section 2 of Article I of the California Constitution.

(m) (1) This title shall not apply to any of the following:

(A) Personal information that is collected by a business about a natural person in the course of the natural person acting as a job applicant to, an employee of, owner of, director of, officer of, medical staff member of, or independent contractor of, that business to the extent that the natural person's personal information is collected and used by the business solely within the context of the natural person's role or former role as a job applicant to, an employee of, owner of, director of, officer of, medical staff member of, or an independent contractor of, that business.

(B) Personal information that is collected by a business that is emergency contact information of the natural person acting as a job applicant to, an employee of, owner of, director of, officer of, medical staff member of, or independent contractor of, that business to the extent that the personal information is collected and used solely within the context of having an emergency contact on file.

(C) Personal information that is necessary for the business to retain to administer benefits for another natural person relating to the natural person acting as a job applicant to, an employee of, owner of, director of, officer of, medical staff member of, or independent contractor of, that business to the extent that the personal information is collected and used solely within the context of administering those benefits.

(2) For purposes of this subdivision:

(A) "Independent contractor" means a natural person who provides any service to a business pursuant to a written contract.

(B) "Director" means a natural person designated in the articles of incorporation as director, or elected by the incorporators and natural persons designated, elected, or appointed by any other name or title to act as directors, and their successors.

(C) "Medical staff member" means a licensed physician and surgeon, dentist, or podiatrist, licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code and a clinical psychologist as defined in Section 1316.5 of the Health and Safety Code.

(D) "Officer" means a natural person elected or appointed by the board of directors to manage the daily operations of a corporation, including a chief executive officer, president, secretary, or treasurer.

(E) "Owner" means a natural person who meets one of the following criteria:

(i) Has ownership of, or the power to vote, more than 50 percent of the outstanding shares of any class of voting security of a business.

(ii) Has control in any manner over the election of a majority of the directors or of individuals exercising similar functions.

(iii) Has the power to exercise a controlling influence over the management of a company.

(3) This subdivision shall not apply to subdivision (a) of Section 1798.100 or Section 1798.150.

(4) This subdivision shall become inoperative on January 1, ~~2023~~, 2025.

(n) (1) The obligations imposed on businesses by Sections 1798.100, 1798.105, 1798.106, 1798.110, 1798.115, 1798.121, 1798.130, and 1798.135 shall not apply to personal information reflecting a written or verbal communication or a transaction between the business and the consumer, where the consumer is a natural person who acted or is acting as an employee, owner, director, officer, or independent contractor of a company, partnership, sole proprietorship, nonprofit, or government agency and whose communications or transaction with the business occur solely within the context of the business conducting due diligence regarding, or providing or receiving a product or service to or from such company, partnership, sole proprietorship, nonprofit, or government agency.

(2) For purposes of this subdivision:

(A) "Independent contractor" means a natural person who provides any service to a business pursuant to a written contract.

(B) "Director" means a natural person designated in the articles of incorporation as such or elected by the incorporators and natural persons designated, elected, or appointed by any other name or title to act as directors, and their successors.

(C) "Officer" means a natural person elected or appointed by the board of directors to manage the daily operations of a corporation, such as a chief executive officer, president, secretary, or treasurer.

(D) "Owner" means a natural person who meets one of the following:

(i) Has ownership of, or the power to vote, more than 50 percent of the outstanding shares of any class of voting security of a business.

(ii) Has control in any manner over the election of a majority of the directors or of individuals exercising similar functions.

(iii) Has the power to exercise a controlling influence over the management of a company.

(3) This subdivision shall become inoperative on January 1, ~~2023~~, 2025.

(o) (1) Sections 1798.105 and 1798.120 shall not apply to a commercial credit reporting agency's collection, processing, sale, or disclosure of business controller information to the extent the commercial credit reporting agency uses the business controller information solely to identify the relationship of a consumer to a business that the consumer owns or contact the consumer only in the consumer's role as the owner, director, officer, or management employee of the business.

(2) For the purposes of this subdivision:

(A) "Business controller information" means the name or names of the owner or owners, director, officer, or management employee of a business and the contact information, including a business title, for the owner or owners, director, officer, or management employee.

(B) "Commercial credit reporting agency" has the meaning set forth in subdivision (b) of Section 1785.42.

(C) "Owner" means a natural person that meets one of the following:

(i) Has ownership of, or the power to vote, more than 50 percent of the outstanding shares of any class of voting security of a business.

(ii) Has control in any manner over the election of a majority of the directors or of individuals exercising similar functions.

(iii) Has the power to exercise a controlling influence over the management of a company.

(D) "Director" means a natural person designated in the articles of incorporation of a business as director, or elected by the incorporators and natural persons designated, elected, or appointed by any other name or title to act as directors, and their successors.

(E) "Officer" means a natural person elected or appointed by the board of directors of a business to manage the daily operations of a corporation, including a chief executive officer, president, secretary, or treasurer.

(F) "Management employee" means a natural person whose name and contact information is reported to or collected by a commercial credit reporting agency as the primary manager of a business and used solely within the context of the natural person's role as the primary manager of the business.

(p) The obligations imposed on businesses in Sections 1798.105, 1798.106, 1798.110, and 1798.115 shall not apply to household data.

(q) (1) This title does not require a business to comply with a verifiable consumer request to delete a consumer's personal information under Section 1798.105 to the extent the verifiable consumer request applies to a student's grades, educational scores, or educational test results that the business holds on behalf of a local educational agency, as defined in subdivision (d) of Section 49073.1 of the Education Code, at which the student is currently enrolled. If a business does not comply with a request pursuant to this section, it shall notify the consumer that it is acting pursuant to this exception.

(2) This title does not require, in response to a request pursuant to Section 1798.110, that a business disclose on educational standardized assessment or educational assessment or a consumer's specific responses to the educational standardized assessment or educational assessment if consumer access, possession, or control would jeopardize the validity and reliability of that educational standardized assessment or educational assessment. If a business does not comply with a request pursuant to this section, it shall notify the consumer that it is acting pursuant to this exception.

(3) For purposes of this subdivision:

(A) "Educational standardized assessment or educational assessment" means a standardized or nonstandardized quiz, test, or other assessment used to evaluate students in or for entry to kindergarten and grades 1 to 12, inclusive, schools, postsecondary institutions, vocational programs, and postgraduate programs that are accredited by an accrediting agency or organization recognized by the State of California or the United States Department of Education, as well as certification and licensure examinations used to determine competency and eligibility to receive certification or licensure from a government agency or government certification body.

(B) "Jeopardize the validity and reliability of that educational standardized assessment or educational assessment" means releasing information that would provide an advantage to the consumer who has submitted a verifiable consumer request or to another natural person.

(r) Sections 1798.105 and 1798.120 shall not apply to a business' use, disclosure, or sale of particular pieces of a consumer's personal information if the consumer has consented to the business' use, disclosure, or sale of that information to produce a physical item, including a school yearbook containing the consumer's photograph if:

(1) The business has incurred significant expense in reliance on the consumer's consent.

(2) Compliance with the consumer's request to opt out of the sale of the consumer's personal information or to delete the consumer's personal information would not be commercially reasonable.

(3) The business complies with the consumer's request as soon as it is commercially reasonable to do so.

SEC. 3. Part 5.6 (commencing with Section 1520) is added to Division 2 of the Labor Code, to read:

PART 5.6. PROHIBITION FROM MONITORING WORKERS OUTSIDE OF WORK

1520. For purposes of this part:

(a) "Employer" means a person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of any person that employs 100 or more workers.

(b) "Labor agency" means the Labor and Workforce Development Agency.

(c) "Worker" means a natural person acting as a job applicant to, an employee of, or an independent contractor providing service to, or through, a business entity in any workplace.

(d) (1) "Worker personal information" means information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular worker, that is collected, generated, stored, used, or disclosed by the employer solely within the context of that worker's role as a job applicant to, an employee of, or an independent contractor of, that employer.

(2) "Worker personal information" does not include confidential business information, internal legal documents, privileged information, publicly available information, deidentified or anonymized information, aggregated information, work

product, including emails sent from a company account, or another worker's personal information.

1521. An employer shall not do any of the following:

(a) (1) Except as provided in paragraph (2), collect or store worker personal information concerning the activities of a worker when all of the following are true:

(A) The worker is off duty.

(B) The worker is off-premises.

(C) The worker is not performing work-related tasks.

(2) An employer may collect or store worker personal information concerning the activities of a worker if any of the following are true:

(A) The worker personal information relates to the use of employer property or property for which the employer has contractual or financial responsibility.

(B) The worker consents to the collection or storage, including by using employer-owned or employer-controlled equipment, systems, or networks, including, but not limited to, a work-related platform or email account.

(C) The worker personal information is reasonably related to the provision or administration of wages or benefits.

(D) The collection or storage is for the purpose of exercising or defending against ongoing or future legal claims, including complying with legal or reasonable contractual obligations of the employer arising in the course of a judicial or administrative proceeding in response to a court order, subpoena, or other lawful discovery process.

(E) The employer collects or receives worker personal information relating to the health, safety, security, or wellbeing of its workers.

(b) Collect or store worker personal information for the sole purpose of identifying workers engaged in activities regarding the formation of, or election of, a labor organization.

(c) An employer shall not knowingly request or contract with a vendor to engage in activities prohibited by this part if performed by the employer.

1522. (a) The labor agency shall have the authority to enforce and assess penalties under this part, to audit employers in order to investigate compliance with this part, and to adopt regulations relating to the procedures for a worker to file a complaint alleging a violation of this part.

(b) This part shall not be enforced by an individual or representative action under Part 13 (commencing with Section 2698) of Division 2.

1523. (a) In a successful action brought by the labor agency to enforce this part, the court may grant injunctive relief in order to obtain compliance with the part and shall award costs and reasonable attorney's fees.

1524. An employer shall not discharge a worker or in any manner discriminate, retaliate, or take any adverse action against a worker because the worker exercised any rights pursuant to this part or notified another worker of the worker's right to exercise any rights pursuant to this part.

1525. Upon a finding that an employer has violated Section 1521, the labor agency may order the employer to pay a civil penalty of no less than one hundred dollars (\$100) and no more than seven thousand five hundred dollars (\$7,500) per violation.

1526. This part shall become inoperative on January 1, 2026, and as of that date is repealed.

SEC. 4. The Legislature finds and declares that this act furthers the purposes and intent of the California Privacy Rights Act of 2020.

Amendment 4

On page 2, strike out lines 1 to 26, inclusive, and strike out page 3

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SECURED
COPY

PROPOSED AMENDMENTS TO ASSEMBLY BILL NO. 1102

AMENDED IN SENATE AUGUST 16, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1102

Introduced by Assembly Member ~~Low~~ Cooley

February 18, 2021



RN2220645

Amendment 1

~~An act to amend Section 4999.2 of the Business and Professions Code, relating to healing arts. An act to amend Section 1798.145 of the Civil Code, and to add and repeal Part 5.6 (commencing with Section 1520) to Division 2 of the Labor Code, relating to privacy.~~

Amendment 2

LEGISLATIVE COUNSEL'S DIGEST

AB 1102, as amended, ~~Low~~ Cooley. ~~Telephone medical advice services. Employment: worker personal information.~~

Existing law, the California Privacy Rights Act of 2020 (CPRA), approved by the voters as Proposition 24 at the November 3, 2020, statewide general election, grants a consumer various rights with respect to personal information, as defined, that is collected or sold by a business, as defined, including the right to require the business to delete personal information about the consumer, as specified.

The CPRA, until January 1, 2023, exempts from certain provisions of the act personal information that is collected and used by a business solely within the context of having an emergency contact on file, administering specified benefits, or a person's role or former role as a job applicant to, an employee of, owner of, director of, officer of, medical staff member of, or an independent contractor of that business. The CPRA, until January 1, 2023, also exempts from certain provisions of the act personal information reflecting a communication or a

transaction between a business and a company, partnership, sole proprietorship, nonprofit, or government agency that occurs solely within the context of the business conducting due diligence or providing or receiving a product or service.

This bill would extend those exemptions until January 1, 2025.

This bill would also, until January 1, 2026, prohibit an employer from taking certain actions with respect to worker personal information, as defined, including collecting or storing worker personal information concerning the activities of a worker when the worker is off duty, off premises, and not performing work-related tasks, subject to certain exceptions, including that the worker personal information relates to the use of employer property or property for which the employer has contractual or financial responsibility. The bill would require the Labor and Workforce Development Agency to enforce and assess penalties under the bill, audit employers in order to investigate compliance with the bill, and adopt regulations relating to the procedures for a worker to file a complaint alleging a violation of the bill. The bill would subject a violator of the bill to certain civil penalties, as prescribed.

The California Privacy Rights Act of 2020 authorizes the Legislature to amend the act to further the purposes and intent of the act by a majority vote of both houses of the Legislature, as specified.

This bill would declare that its provisions further the purposes and intent of the California Privacy Rights Act of 2020.

~~Existing law requires a telephone medical advice service, as defined, to be responsible for, among other requirements, ensuring that all health care professionals who provide medical advice services are appropriately licensed, certified, or registered, as specified. Existing law requires the respective healing arts licensing board to be responsible for enforcing specified provisions related to telephone medical advice services.~~

~~Existing law requires a telephone medical advice service to ensure that all health care professionals who provide telephone medical advice services from an out-of-state location are licensed, registered, or certified in the state within which they are providing the telephone medical advice services and are operating consistent with the laws governing their respective scopes of practice. Existing law further requires a telephone medical advice service to comply with all directions and requests for information made by the Department of Consumer Affairs, and to notify the department within 30 days of any change of name, physical location, mailing address, or telephone number of any business, owner, partner,~~

corporate officer, or agent for service of process in California, as specified.

~~This bill would specify that a telephone medical advice service is required to ensure that all health care professionals who provide telephone medical advice services from an out-of-state location are operating consistent with the laws governing their respective licenses. The bill would specify that a telephone medical advice service is required to comply with all directions and requests for information made by the respective healing arts licensing boards. The bill would also eliminate the above-specified notification requirement.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

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

- + SECTION 1. (a) *The Legislature hereby finds and declares*
- + *all of the following:*
- + (1) *California workers deserve privacy protections tailored to*
- + *the employment context as opposed to the relationship that exists*
- + *between consumers and businesses.*
- + (2) *The Legislature, as well as advocates representing both*
- + *workers and businesses, continues to engage in discussions*
- + *concerning the enactment of robust and implementable privacy*
- + *protections tailored to the employment context, but additional time*
- + *is required to enact these protections.*
- + (3) *The California Consumer Privacy Act of 2018 (CCPA)*
- + *granted consumers various rights with regard to their personal*
- + *information. The California Privacy Rights Act of 2020 (CPRA),*
- + *approved by the voters as Proposition 24 at the November 3, 2020,*
- + *statewide general election, amended, added to, and reenacted the*
- + *CCPA, while also recognizing that the various rights granted to*
- + *consumers under the CCPA and the CPRA are ill-suited to the*
- + *employment context. Accordingly, the CPRA reenacted and*
- + *extended provisions in the CCPA clarifying that the CPRA does*
- + *not apply to personal information collected by a business about a*
- + *natural person in the course of the natural person acting within*
- + *the employment context, including emergency contact information,*
- + *information necessary to administer benefits, or information*
- + *collected in the course of business to business communications or*
- + *transactions.*

Amendment 3

- + (4) *The aforementioned provisions in the CCPA, and the CPRA's*
- + *subsequent extension of those provisions, are consistent with the*
- + *stated purposes of the CPRA, which stipulate that the privacy*
- + *interests of employees and independent contractors should be*
- + *protected, taking into account the differences in the relationship*
- + *between employees or independent contractors and businesses, as*
- + *compared to the relationship between consumers and businesses.*
- + (b) *Therefore, it is the intent of the Legislature to promote*
- + *privacy protections for employees by extending the aforementioned*
- + *provisions to provide adequate time for the development of robust*
- + *and implementable privacy protections tailored to the employment*
- + *context, while providing temporary protections around worker*
- + *monitoring.*
- + SEC. 2. *Section 1798.145 of the Civil Code, as amended by*
- + *Chapter 700 of the Statutes of 2021, is amended to read:*
- + 1798.145. Exemptions
- + (a) The obligations imposed on businesses by this title shall not
- + restrict a business' ability to:
- + (1) Comply with federal, state, or local laws or comply with a
- + court order or subpoena to provide information.
- + (2) Comply with a civil, criminal, or regulatory inquiry,
- + investigation, subpoena, or summons by federal, state, or local
- + authorities. Law enforcement agencies, including police and
- + sheriff's departments, may direct a business pursuant to a law
- + enforcement agency-approved investigation with an active case
- + number not to delete a consumer's personal information, and, upon
- + receipt of that direction, a business shall not delete the personal
- + information for 90 days in order to allow the law enforcement
- + agency to obtain a court-issued subpoena, order, or warrant to
- + obtain a consumer's personal information. For good cause and
- + only to the extent necessary for investigatory purposes, a law
- + enforcement agency may direct a business not to delete the
- + consumer's personal information for additional 90-day periods. A
- + business that has received direction from a law enforcement agency
- + not to delete the personal information of a consumer who has
- + requested deletion of the consumer's personal information shall
- + not use the consumer's personal information for any purpose other
- + than retaining it to produce to law enforcement in response to a
- + court-issued subpoena, order, or warrant unless the consumer's

- + deletion request is subject to an exemption from deletion under
- + this title.
- + (3) Cooperate with law enforcement agencies concerning
- + conduct or activity that the business, service provider, or third
- + party reasonably and in good faith believes may violate federal,
- + state, or local law.
- + (4) Cooperate with a government agency request for emergency
- + access to a consumer's personal information if a natural person is
- + at risk or danger of death or serious physical injury provided that:
- + (A) The request is approved by a high-ranking agency officer
- + for emergency access to a consumer's personal information.
- + (B) The request is based on the agency's good faith
- + determination that it has a lawful basis to access the information
- + on a nonemergency basis.
- + (C) The agency agrees to petition a court for an appropriate
- + order within three days and to destroy the information if that order
- + is not granted.
- + (5) Exercise or defend legal claims.
- + (6) Collect, use, retain, sell, share, or disclose consumers'
- + personal information that is deidentified or aggregate consumer
- + information.
- + (7) Collect, sell, or share a consumer's personal information if
- + every aspect of that commercial conduct takes place wholly outside
- + of California. For purposes of this title, commercial conduct takes
- + place wholly outside of California if the business collected that
- + information while the consumer was outside of California, no part
- + of the sale of the consumer's personal information occurred in
- + California, and no personal information collected while the
- + consumer was in California is sold. This paragraph shall not
- + prohibit a business from storing, including on a device, personal
- + information about a consumer when the consumer is in California
- + and then collecting that personal information when the consumer
- + and stored personal information is outside of California.
- + (b) The obligations imposed on businesses by Sections 1798.110,
- + 1798.115, 1798.120, 1798.121, 1798.130, and 1798.135 shall not
- + apply where compliance by the business with the title would violate
- + an evidentiary privilege under California law and shall not prevent
- + a business from providing the personal information of a consumer
- + to a person covered by an evidentiary privilege under California
- + law as part of a privileged communication.

- + (c) (1) This title shall not apply to any of the following:
- + (A) Medical information governed by the Confidentiality of
- + Medical Information Act (Part 2.6 (commencing with Section 56)
- + of Division 1) or protected health information that is collected by
- + a covered entity or business associate governed by the privacy,
- + security, and breach notification rules issued by the United States
- + Department of Health and Human Services, Parts 160 and 164 of
- + Title 45 of the Code of Federal Regulations, established pursuant
- + to the Health Insurance Portability and Accountability Act of 1996
- + (Public Law 104-191) and the Health Information Technology for
- + Economic and Clinical Health Act (Public Law 111-5).
- + (B) A provider of health care governed by the Confidentiality
- + of Medical Information Act (Part 2.6 (commencing with Section
- + 56) of Division 1) or a covered entity governed by the privacy,
- + security, and breach notification rules issued by the United States
- + Department of Health and Human Services, Parts 160 and 164 of
- + Title 45 of the Code of Federal Regulations, established pursuant
- + to the Health Insurance Portability and Accountability Act of 1996
- + (Public Law 104-191), to the extent the provider or covered entity
- + maintains patient information in the same manner as medical
- + information or protected health information as described in
- + subparagraph (A) of this section.
- + (C) Personal information collected as part of a clinical trial or
- + other biomedical research study subject to, or conducted in
- + accordance with, the Federal Policy for the Protection of Human
- + Subjects, also known as the Common Rule, pursuant to good
- + clinical practice guidelines issued by the International Council for
- + Harmonisation or pursuant to human subject protection
- + requirements of the United States Food and Drug Administration,
- + provided that the information is not sold or shared in a manner not
- + permitted by this subparagraph, and, if it is inconsistent, that
- + participants be informed of that use and provide consent.
- + (2) For purposes of this subdivision, the definitions of “medical
- + information” and “provider of health care” in Section 56.05 shall
- + apply and the definitions of “business associate,” “covered entity,”
- + and “protected health information” in Section 160.103 of Title 45
- + of the Code of Federal Regulations shall apply.
- + (d) (1) This title shall not apply to an activity involving the
- + collection, maintenance, disclosure, sale, communication, or use
- + of any personal information bearing on a consumer’s

- + creditworthiness, credit standing, credit capacity, character, general
- + reputation, personal characteristics, or mode of living by a
- + consumer reporting agency, as defined in subdivision (f) of Section
- + 1681a of Title 15 of the United States Code, by a furnisher of
- + information, as set forth in Section 1681s-2 of Title 15 of the
- + United States Code, who provides information for use in a
- + consumer report, as defined in subdivision (d) of Section 1681a
- + of Title 15 of the United States Code, and by a user of a consumer
- + report as set forth in Section 1681b of Title 15 of the United States
- + Code.
- + (2) Paragraph (1) shall apply only to the extent that such activity
- + involving the collection, maintenance, disclosure, sale,
- + communication, or use of such information by that agency,
- + furnisher, or user is subject to regulation under the Fair Credit
- + Reporting Act, Section 1681 et seq., Title 15 of the United States
- + Code and the information is not collected, maintained, used,
- + communicated, disclosed, or sold except as authorized by the Fair
- + Credit Reporting Act.
- + (3) This subdivision shall not apply to Section 1798.150.
- + (e) This title shall not apply to personal information collected,
- + processed, sold, or disclosed subject to the federal
- + Gramm-Leach-Bliley Act (Public Law 106-102), and implementing
- + regulations, or the California Financial Information Privacy Act
- + (Division 1.4 (commencing with Section 4050) of the Financial
- + Code), or the federal Farm Credit Act of 1971 (as amended in 12
- + U.S.C. 2001-2279cc and implementing regulations, 12 C.F.R. 600,
- + et seq.). This subdivision shall not apply to Section 1798.150.
- + (f) This title shall not apply to personal information collected,
- + processed, sold, or disclosed pursuant to the Driver's Privacy
- + Protection Act of 1994 (18 U.S.C. Sec. 2721 et seq.). This
- + subdivision shall not apply to Section 1798.150.
- + (g) (1) Section 1798.120 shall not apply to vehicle information
- + or ownership information retained or shared between a new motor
- + vehicle dealer, as defined in Section 426 of the Vehicle Code, and
- + the vehicle's manufacturer, as defined in Section 672 of the Vehicle
- + Code, if the vehicle information or ownership information is shared
- + for the purpose of effectuating, or in anticipation of effectuating,
- + a vehicle repair covered by a vehicle warranty or a recall conducted
- + pursuant to Sections 30118 to 30120, inclusive, of Title 49 of the
- + United States Code, provided that the new motor vehicle dealer

- + or vehicle manufacturer with which that vehicle information or
- + ownership information is shared does not sell, share, or use that
- + information for any other purpose.
- + (2) Section 1798.120 shall not apply to vessel information or
- + ownership information retained or shared between a vessel dealer
- + and the vessel's manufacturer, as defined in Section 651 of the
- + Harbors and Navigation Code, if the vessel information or
- + ownership information is shared for the purpose of effectuating,
- + or in anticipation of effectuating, a vessel repair covered by a vessel
- + warranty or a recall conducted pursuant to Section 4310 of Title
- + 46 of the United States Code, provided that the vessel dealer or
- + vessel manufacturer with which that vessel information or
- + ownership information is shared does not sell, share, or use that
- + information for any other purpose.
- + (3) For purposes of this subdivision:
- + (A) "Ownership information" means the name or names of the
- + registered owner or owners and the contact information for the
- + owner or owners.
- + (B) "Vehicle information" means the vehicle information
- + number, make, model, year, and odometer reading.
- + (C) "Vessel dealer" means a person who is engaged, wholly or
- + in part, in the business of selling or offering for sale, buying or
- + taking in trade for the purpose of resale, or exchanging, any vessel
- + or vessels, as defined in Section 651 of the Harbors and Navigation
- + Code, and receives or expects to receive money, profit, or any
- + other thing of value.
- + (D) "Vessel information" means the hull identification number,
- + model, year, month and year of production, and information
- + describing any of the following equipment as shipped, transferred,
- + or sold from the place of manufacture, including all attached parts
- + and accessories:
- + (i) An inboard engine.
- + (ii) An outboard engine.
- + (iii) A stern drive unit.
- + (iv) An inflatable personal floatation device approved under
- + Section 160.076 of Title 46 of the Code of Federal Regulations.
- + (h) Notwithstanding a business' obligations to respond to and
- + honor consumer rights requests pursuant to this title:
- + (1) A time period for a business to respond to a consumer for
- + any verifiable consumer request may be extended by up to a total

- + of 90 days where necessary, taking into account the complexity
- + and number of the requests. The business shall inform the consumer
- + of any such extension within 45 days of receipt of the request,
- + together with the reasons for the delay.
- + (2) If the business does not take action on the request of the
- + consumer, the business shall inform the consumer, without delay
- + and at the latest within the time period permitted of response by
- + this section, of the reasons for not taking action and any rights the
- + consumer may have to appeal the decision to the business.
- + (3) If requests from a consumer are manifestly unfounded or
- + excessive, in particular because of their repetitive character, a
- + business may either charge a reasonable fee, taking into account
- + the administrative costs of providing the information or
- + communication or taking the action requested, or refuse to act on
- + the request and notify the consumer of the reason for refusing the
- + request. The business shall bear the burden of demonstrating that
- + any verifiable consumer request is manifestly unfounded or
- + excessive.
- + (i) (1) A business that discloses personal information to a
- + service provider or contractor in compliance with this title shall
- + not be liable under this title if the service provider or contractor
- + receiving the personal information uses it in violation of the
- + restrictions set forth in the title, provided that, at the time of
- + disclosing the personal information, the business does not have
- + actual knowledge, or reason to believe, that the service provider
- + or contractor intends to commit such a violation. A service provider
- + or contractor shall likewise not be liable under this title for the
- + obligations of a business for which it provides services as set forth
- + in this title provided that the service provider or contractor shall
- + be liable for its own violations of this title.
- + (2) A business that discloses personal information of a consumer,
- + with the exception of consumers who have exercised their right to
- + opt out of the sale or sharing of their personal information,
- + consumers who have limited the use or disclosure of their sensitive
- + personal information, and minor consumers who have not opted
- + in to the collection or sale of their personal information, to a third
- + party pursuant to a written contract that requires the third party to
- + provide the same level of protection of the consumer's rights under
- + this title as provided by the business shall not be liable under this
- + title if the third party receiving the personal information uses it in

- + violation of the restrictions set forth in this title provided that, at
- + the time of disclosing the personal information, the business does
- + not have actual knowledge, or reason to believe, that the third party
- + intends to commit such a violation.
- + (j) This title shall not be construed to require a business, service
- + provider, or contractor to:
- + (1) Reidentify or otherwise link information that, in the ordinary
- + course of business, is not maintained in a manner that would be
- + considered personal information.
- + (2) Retain any personal information about a consumer if, in the
- + ordinary course of business, that information about the consumer
- + would not be retained.
- + (3) Maintain information in identifiable, linkable, or associable
- + form, or collect, obtain, retain, or access any data or technology,
- + in order to be capable of linking or associating a verifiable
- + consumer request with personal information.
- + (k) The rights afforded to consumers and the obligations
- + imposed on the business in this title shall not adversely affect the
- + rights and freedoms of other natural persons. A verifiable consumer
- + request for specific pieces of personal information pursuant to
- + Section 1798.110, to delete a consumer's personal information
- + pursuant to Section 1798.105, or to correct inaccurate personal
- + information pursuant to Section 1798.106, shall not extend to
- + personal information about the consumer that belongs to, or the
- + business maintains on behalf of, another natural person. A business
- + may rely on representations made in a verifiable consumer request
- + as to rights with respect to personal information and is under no
- + legal requirement to seek out other persons that may have or claim
- + to have rights to personal information, and a business is under no
- + legal obligation under this title or any other provision of law to
- + take any action under this title in the event of a dispute between
- + or among persons claiming rights to personal information in the
- + business' possession.
- + (l) The rights afforded to consumers and the obligations imposed
- + on any business under this title shall not apply to the extent that
- + they infringe on the noncommercial activities of a person or entity
- + described in subdivision (b) of Section 2 of Article I of the
- + California Constitution.
- + (m) (1) This title shall not apply to any of the following:

- + (A) Personal information that is collected by a business about
- + a natural person in the course of the natural person acting as a job
- + applicant to, an employee of, owner of, director of, officer of,
- + medical staff member of, or independent contractor of, that
- + business to the extent that the natural person's personal information
- + is collected and used by the business solely within the context of
- + the natural person's role or former role as a job applicant to, an
- + employee of, owner of, director of, officer of, medical staff member
- + of, or an independent contractor of, that business.
- + (B) Personal information that is collected by a business that is
- + emergency contact information of the natural person acting as a
- + job applicant to, an employee of, owner of, director of, officer of,
- + medical staff member of, or independent contractor of, that
- + business to the extent that the personal information is collected
- + and used solely within the context of having an emergency contact
- + on file.
- + (C) Personal information that is necessary for the business to
- + retain to administer benefits for another natural person relating to
- + the natural person acting as a job applicant to, an employee of,
- + owner of, director of, officer of, medical staff member of, or
- + independent contractor of, that business to the extent that the
- + personal information is collected and used solely within the context
- + of administering those benefits.
- + (2) For purposes of this subdivision:
- + (A) "Independent contractor" means a natural person who
- + provides any service to a business pursuant to a written contract.
- + (B) "Director" means a natural person designated in the articles
- + of incorporation as director, or elected by the incorporators and
- + natural persons designated, elected, or appointed by any other
- + name or title to act as directors, and their successors.
- + (C) "Medical staff member" means a licensed physician and
- + surgeon, dentist, or podiatrist, licensed pursuant to Division 2
- + (commencing with Section 500) of the Business and Professions
- + Code and a clinical psychologist as defined in Section 1316.5 of
- + the Health and Safety Code.
- + (D) "Officer" means a natural person elected or appointed by
- + the board of directors to manage the daily operations of a
- + corporation, including a chief executive officer, president,
- + secretary, or treasurer.

- + (E) “Owner” means a natural person who meets one of the
- + following criteria:
- + (i) Has ownership of, or the power to vote, more than 50 percent
- + of the outstanding shares of any class of voting security of a
- + business.
- + (ii) Has control in any manner over the election of a majority
- + of the directors or of individuals exercising similar functions.
- + (iii) Has the power to exercise a controlling influence over the
- + management of a company.
- + (3) This subdivision shall not apply to subdivision (a) of Section
- + 1798.100 or Section 1798.150.
- + (4) This subdivision shall become inoperative on January 1,
- + ~~2023~~ 2025.
- + (n) (1) The obligations imposed on businesses by Sections
- + 1798.100, 1798.105, 1798.106, 1798.110, 1798.115, 1798.121,
- + 1798.130, and 1798.135 shall not apply to personal information
- + reflecting a written or verbal communication or a transaction
- + between the business and the consumer, where the consumer is a
- + natural person who acted or is acting as an employee, owner,
- + director, officer, or independent contractor of a company,
- + partnership, sole proprietorship, nonprofit, or government agency
- + and whose communications or transaction with the business occur
- + solely within the context of the business conducting due diligence
- + regarding, or providing or receiving a product or service to or from
- + such company, partnership, sole proprietorship, nonprofit, or
- + government agency.
- + (2) For purposes of this subdivision:
- + (A) “Independent contractor” means a natural person who
- + provides any service to a business pursuant to a written contract.
- + (B) “Director” means a natural person designated in the articles
- + of incorporation as such or elected by the incorporators and natural
- + persons designated, elected, or appointed by any other name or
- + title to act as directors, and their successors.
- + (C) “Officer” means a natural person elected or appointed by
- + the board of directors to manage the daily operations of a
- + corporation, such as a chief executive officer, president, secretary,
- + or treasurer.
- + (D) “Owner” means a natural person who meets one of the
- + following:

- + (i) Has ownership of, or the power to vote, more than 50 percent
- + of the outstanding shares of any class of voting security of a
- + business.
- + (ii) Has control in any manner over the election of a majority
- + of the directors or of individuals exercising similar functions.
- + (iii) Has the power to exercise a controlling influence over the
- + management of a company.
- + (3) This subdivision shall become inoperative on January 1,
- + ~~2023.~~ 2025.
- + (o) (1) Sections 1798.105 and 1798.120 shall not apply to a
- + commercial credit reporting agency's collection, processing, sale,
- + or disclosure of business controller information to the extent the
- + commercial credit reporting agency uses the business controller
- + information solely to identify the relationship of a consumer to a
- + business that the consumer owns or contact the consumer only in
- + the consumer's role as the owner, director, officer, or management
- + employee of the business.
- + (2) For the purposes of this subdivision:
- + (A) "Business controller information" means the name or names
- + of the owner or owners, director, officer, or management employee
- + of a business and the contact information, including a business
- + title, for the owner or owners, director, officer, or management
- + employee.
- + (B) "Commercial credit reporting agency" has the meaning set
- + forth in subdivision (b) of Section 1785.42.
- + (C) "Owner" means a natural person that meets one of the
- + following:
- + (i) Has ownership of, or the power to vote, more than 50 percent
- + of the outstanding shares of any class of voting security of a
- + business.
- + (ii) Has control in any manner over the election of a majority
- + of the directors or of individuals exercising similar functions.
- + (iii) Has the power to exercise a controlling influence over the
- + management of a company.
- + (D) "Director" means a natural person designated in the articles
- + of incorporation of a business as director, or elected by the
- + incorporators and natural persons designated, elected, or appointed
- + by any other name or title to act as directors, and their successors.
- + (E) "Officer" means a natural person elected or appointed by
- + the board of directors of a business to manage the daily operations

- + of a corporation, including a chief executive officer, president,
- + secretary, or treasurer.
- + (F) “Management employee” means a natural person whose
- + name and contact information is reported to or collected by a
- + commercial credit reporting agency as the primary manager of a
- + business and used solely within the context of the natural person’s
- + role as the primary manager of the business.
- + (p) The obligations imposed on businesses in Sections 1798.105,
- + 1798.106, 1798.110, and 1798.115 shall not apply to household
- + data.
- + (q) (1) This title does not require a business to comply with a
- + verifiable consumer request to delete a consumer’s personal
- + information under Section 1798.105 to the extent the verifiable
- + consumer request applies to a student’s grades, educational scores,
- + or educational test results that the business holds on behalf of a
- + local educational agency, as defined in subdivision (d) of Section
- + 49073.1 of the Education Code, at which the student is currently
- + enrolled. If a business does not comply with a request pursuant to
- + this section, it shall notify the consumer that it is acting pursuant
- + to this exception.
- + (2) This title does not require, in response to a request pursuant
- + to Section 1798.110, that a business disclose on educational
- + standardized assessment or educational assessment or a consumer’s
- + specific responses to the educational standardized assessment or
- + educational assessment if consumer access, possession, or control
- + would jeopardize the validity and reliability of that educational
- + standardized assessment or educational assessment. If a business
- + does not comply with a request pursuant to this section, it shall
- + notify the consumer that it is acting pursuant to this exception.
- + (3) For purposes of this subdivision:
- + (A) “Educational standardized assessment or educational
- + assessment” means a standardized or nonstandardized quiz, test,
- + or other assessment used to evaluate students in or for entry to
- + kindergarten and grades 1 to 12, inclusive, schools, postsecondary
- + institutions, vocational programs, and postgraduate programs that
- + are accredited by an accrediting agency or organization recognized
- + by the State of California or the United States Department of
- + Education, as well as certification and licensure examinations used
- + to determine competency and eligibility to receive certification or

+ licensure from a government agency or government certification
+ body.

+ (B) “Jeopardize the validity and reliability of that educational
+ standardized assessment or educational assessment” means
+ releasing information that would provide an advantage to the
+ consumer who has submitted a verifiable consumer request or to
+ another natural person.

+ (r) Sections 1798.105 and 1798.120 shall not apply to a business’
+ use, disclosure, or sale of particular pieces of a consumer’s personal
+ information if the consumer has consented to the business’ use,
+ disclosure, or sale of that information to produce a physical item,
+ including a school yearbook containing the consumer’s photograph
+ if:

+ (1) The business has incurred significant expense in reliance on
+ the consumer’s consent.

+ (2) Compliance with the consumer’s request to opt out of the
+ sale of the consumer’s personal information or to delete the
+ consumer’s personal information would not be commercially
+ reasonable.

+ (3) The business complies with the consumer’s request as soon
+ as it is commercially reasonable to do so.

+ SEC. 3. Part 5.6 (commencing with Section 1520) is added to
+ Division 2 of the Labor Code, to read:

+

+ PART 5.6. PROHIBITION FROM MONITORING WORKERS
+ OUTSIDE OF WORK

+

+ 1520. For purposes of this part:

+ (a) “Employer” means a person who directly or indirectly, or
+ through an agent or any other person, employs or exercises control
+ over the wages, hours, or working conditions of any person that
+ employs 100 or more workers.

+ (b) “Labor agency” means the Labor and Workforce
+ Development Agency.

+ (c) “Worker” means a natural person acting as a job applicant
+ to, an employee of, or an independent contractor providing service
+ to, or through, a business entity in any workplace.

+ (d) (1) “Worker personal information” means information that
+ identifies, relates to, describes, is reasonably capable of being
+ associated with, or could reasonably be linked, directly or

- + indirectly, with a particular worker; that is collected, generated,
- + stored, used, or disclosed by the employer solely within the context
- + of that worker's role as a job applicant to, an employee of, or an
- + independent contractor of, that employer.
- + (2) "Worker personal information" does not include confidential
- + business information, internal legal documents, privileged
- + information, publicly available information, deidentified or
- + anonymized information, aggregated information, work product,
- + including emails sent from a company account, or another worker's
- + personal information.
- + 1521. An employer shall not do any of the following:
- + (a) (1) Except as provided in paragraph (2), collect or store
- + worker personal information concerning the activities of a worker
- + when all of the following are true:
- + (A) The worker is off duty.
- + (B) The worker is off-premises.
- + (C) The worker is not performing work-related tasks.
- + (2) An employer may collect or store worker personal
- + information concerning the activities of a worker if any of the
- + following are true:
- + (A) The worker personal information relates to the use of
- + employer property or property for which the employer has
- + contractual or financial responsibility.
- + (B) The worker consents to the collection or storage, including
- + by using employer-owned or employer-controlled equipment,
- + systems, or networks, including, but not limited to, a work-related
- + platform or email account.
- + (C) The worker personal information is reasonably related to
- + the provision or administration of wages or benefits.
- + (D) The collection or storage is for the purpose of exercising
- + or defending against ongoing or future legal claims, including
- + complying with legal or reasonable contractual obligations of the
- + employer arising in the course of a judicial or administrative
- + proceeding in response to a court order, subpoena, or other lawful
- + discovery process.
- + (E) The employer collects or receives worker personal
- + information relating to the health, safety, security, or wellbeing
- + of its workers.

+ (b) Collect or store worker personal information for the sole
+ purpose of identifying workers engaged in activities regarding the
+ formation of, or election of, a labor organization.
+ (c) An employer shall not knowingly request or contract with a
+ vendor to engage in activities prohibited by this part if performed
+ by the employer.
+ 1522. (a) The labor agency shall have the authority to enforce
+ and assess penalties under this part, to audit employers in order
+ to investigate compliance with this part, and to adopt regulations
+ relating to the procedures for a worker to file a complaint alleging
+ a violation of this part.
+ (b) This part shall not be enforced by an individual or
+ representative action under Part 13 (commencing with Section
+ 2698) of Division 2.
+ 1523. (a) In a successful action brought by the labor agency
+ to enforce this part, the court may grant injunctive relief in order
+ to obtain compliance with the part and shall award costs and
+ reasonable attorney's fees.
+ 1524. An employer shall not discharge a worker or in any
+ manner discriminate, retaliate, or take any adverse action against
+ a worker because the worker exercised any rights pursuant to this
+ part or notified another worker of the worker's right to exercise
+ any rights pursuant to this part.
+ 1525. Upon a finding that an employer has violated Section
+ 1521, the labor agency may order the employer to pay a civil
+ penalty of no less than one hundred dollars (\$100) and no more
+ than seven thousand five hundred dollars (\$7,500) per violation.
+ 1526. This part shall become inoperative on January 1, 2026,
+ and as of that date is repealed.
+ SEC. 4. The Legislature finds and declares that this act furthers
+ the purposes and intent of the California Privacy Rights Act of
+ 2020.

Page 2 1 ~~SECTION 1. Section 4999.2 of the Business and Professions~~
2 ~~Code is amended to read:~~
3 ~~4999.2. A telephone medical advice service shall be responsible~~
4 ~~for complying with the following requirements:~~
5 ~~(a) (1) Ensuring that all health care professionals who provide~~
6 ~~medical advice services are appropriately licensed, certified, or~~
7 ~~registered as a physician and surgeon pursuant to Chapter 5~~
8 ~~(commencing with Section 2000) or the Osteopathic Initiative Act,~~

Amendment 4

Page 2 9 as a dentist, dental hygienist, dental hygienist in alternative
10 practice, or dental hygienist in extended functions pursuant to
11 Chapter 4 (commencing with Section 1600), as an occupational
12 therapist pursuant to Chapter 5.6 (commencing with Section 2570),
13 as a registered nurse pursuant to Chapter 6 (commencing with
14 Section 2700), as a psychologist pursuant to Chapter 6.6
15 (commencing with Section 2900), as a naturopathic doctor pursuant
16 to Chapter 8.2 (commencing with Section 3610), as a marriage
17 and family therapist pursuant to Chapter 13 (commencing with
18 Section 4980), as a licensed clinical social worker pursuant to
19 Chapter 14 (commencing with Section 4991), as a licensed
20 professional clinical counselor pursuant to Chapter 16
21 (commencing with Section 4999.10), as an optometrist pursuant
22 to Chapter 7 (commencing with Section 3000), or as a chiropractor
23 pursuant to the Chiropractic Initiative Act, and operating consistent
24 with the laws governing their respective scopes of practice in the
25 state within which they provide telephone medical advice services,
26 except as provided in subdivision (b).

Page 3 1 (2) Ensuring that all health care professionals who provide
2 telephone medical advice services from an out-of-state location,
3 as identified in paragraph (1), are licensed, registered, or certified
4 in the state within which they are providing the telephone medical
5 advice services and are operating consistent with the laws
6 governing their respective licenses and scopes of practice.
7 (b) Ensuring that the telephone medical advice provided is
8 consistent with good professional practice.
9 (c) Maintaining records of telephone medical advice services,
10 including records of complaints, provided to patients in California
11 for a period of at least five years.
12 (d) Ensuring that no staff member uses a title or designation
13 when speaking to an enrollee, subscriber, or consumer that may
14 cause a reasonable person to believe that the staff member is a
15 licensed, certified, or registered health care professional described
16 in paragraph (1) of subdivision (a), unless the staff member is a
17 licensed, certified, or registered professional.
18 (e) Complying with all directions and requests for information
19 made by the Department of Consumer Affairs and respective
20 healing arts licensing boards.

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