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DIRECTOR

State of California—Health and Human Services Agency  
Department of Health Care Services



EDMUND G. BROWN JR.  
GOVERNOR

August 15, 2018

The Honorable Anthony J. Portantino, Chair  
Senate Appropriations Committee  
State Capitol, Room 2206  
Sacramento, CA 95814

Dear Senator Portantino:

ASSEMBLY BILL 2397 (AS INTRODUCED) – OPPOSE

The Department of Health Care Services (DHCS) must inform you of its opposition to Assembly Bill (AB) 2397. Existing law, in Health and Safety Code (HSC) §1522.08, permits DHCS, the California Department of Aging, the California Department of Public Health, the Emergency Medical Services Authority, and the California Department of Social Services to share information with respect to applicants, licensees, certificate holders, or individuals who have been the subject of any administrative action resulting in the denial, suspension, probation, revocation, or rescission of a license, permit, or certificate of approval, or in the exclusion of any person from a facility, certified family home, or resource family home who is subject to a background check. The bill would make this information sharing mandatory rather than permissive.

DHCS believes that current practices and statute are sufficient in this matter, and that the permissive nature of the statute is beneficial. The bounds for information sharing are better addressed through interagency agreements rather than a one-size-fits-all legislative mandate that is overbroad. The current permissiveness in statute allows for more efficient and effective information sharing that takes into account department-specific considerations and needs. AB 2397, in contrast, treats all information from every department the same in mandating it all be shared with every department listed, even if such information is irrelevant to or inconsistent with the programs administered by a given department.

One instance where the mandatory nature of AB 2397 would create an issue involves certified Alcohol or Other Drug (AOD) counselors, which are involved in the delivery of Substance Use Disorder (SUD) treatment services. The AOD counselor registration or certification is provided by a third party Certifying Organization; however, DHCS is mandated by regulations to conduct AOD counselor investigations and, if appropriate, issue an order to suspend or revoke a counselor's registration or certification. This process involves initiating and completing the investigation, which qualifies it as an "administrative action" under the bill's definition. DHCS has access to limited information, which is not currently an issue because statute is permissive. Under AB 2397 however, DHCS would be obligated to share information with other departments that it may not have. This would be extremely problematic, and would require additional staffing resources to attempt to gather and share this information.

Honorable Anthony J. Portantino

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It is for these reasons DHCS must recommend an Oppose position. If you have any questions, please contact me at 440-7500.

Sincerely,

*o/s/by: CG*

Carol Gallegos  
Deputy Director

cc: The Honorable Jay Obernolte  
Senate Appropriations Committee, Members  
Senate Republican Caucus  
Senate Floor Analysis  
Department of Finance  
CHHS Legislative Unit  
GO Deputy Legislative Secretary