Date of Hearing: April 19, 2022

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION
Jesse Gabriel, Chair
AB 2089 (Bauer-Kahan) – As Amended March 24, 2022

As proposed to be amended

SUBJECT: Privacy: mental health information

SUMMARY: This bill would include "mental health application information" within the definition of "medical information" in California's Confidentiality of Medical Information Act (CMIA) and provide that a business that offers a mental health app to consumers is a provider of health care. Specifically, **this bill would**:

1) Include mental health application information within the definition of "medical information."

2) Provide that any business that offers a mental health application to a consumer for the purposes of allowing the individual to manage their information, or for the diagnosis, treatment, or management of a medical condition of the individual, shall be deemed to be a provider of healthcare.

3) Provide that, when partnering with a provider of health care to provide mental health application services, any business that offers a mental health application to notify the provider of health care of all reportable data breaches and known violations of this part in the past three years before finalizing an agreement between the entities.

4) Define the following terms:

   - "Mental health application" to mean a mobile-based application that collects mental health application information from a consumer, markets itself as facilitating mental health services to a consumer, and uses the information to facilitate mental health services to a consumer.

   - "Mental health application information" to mean information related to a consumer's inferred or diagnosed mental health or substance use disorder, as defined in Section 1374.72 of the Health and Safety Code, collected by a mental health application.

EXISTING LAW:

1) Specifies, under the federal Health Insurance Portability and Accountability Act (HIPAA), privacy protections for patients' protected health information and generally provides that a covered entity, as defined (health plan, health care provider, and health care clearing house), may not use or disclose protected health information except as specified or as authorized by the patient in writing. (45 C.F.R. Sec. 164.500 et seq.)

2) Provides, under the California Constitution, that all people have inalienable rights, including the right to pursue and obtain privacy. (Cal. Const. art. I, Sec. 1.)

3) Prohibits, under CMIA, providers of health care, health care service plans, or contractors, as defined, from sharing medical information without the patient's written authorization, subject to certain exceptions. (Civ. Code Sec. 56 et seq.)

4) Defines "medical information" to mean any individually identifiable information, in electronic or physical form, in possession of or derived from a provider of health care, health care service plan, pharmaceutical company, or contractor regarding a patient's medical history, mental or physical condition, or treatment. CMIA defines "individually identifiable" to mean that the medical information includes or contains any element of personal identifying information sufficient to allow identification of the individual, such as the patient's name, address, electronic mail address, telephone number, or social security number, or other information that, alone or in combination with other publicly available information, reveals the individual's identity. (Civ. Code Sec. 56.05(g).)

5) Defines a "mental health and substance use disorder" as a mental health condition or substance use disorder that falls under any of the diagnostic categories listed in the mental and behavioral disorders chapter of the most recent edition of the International Classification of Diseases or that is listed in the most recent version of the Diagnostic and Statistical Manual of Mental Disorders. (Health & Saf. Code Sec. 1374.72.)

6) Provides that any business organized for the purpose of maintaining medical information in order to make the information available to an individual or to a provider of health care at the request of the individual or the provider of health care, for purposes of allowing the individual to manage his or her information, or for the diagnosis of treatment of the individual, shall be deemed to be a provider of health care subject to the requirements of the CMIA. (Civ. Code Sec. 56.06(a).)

7) Provides that any provider of health care, health care service plan, pharmaceutical company, or contractor who negligently creates, maintains, preserves, stores, abandons, destroys, or disposes of written or electronic medical records shall be subject to damages in a civil action or an administrative fine, as specified. (Civ. Code Sec. 56.36.)

8) Establishes the California Consumer Privacy Act of 2018 (CCPA) and provides various rights to consumers pursuant to the act. Subject to various general exemptions, a consumer has, among other things:

   - the right to know what personal information (PI) a business collects about consumers, as specified, including the categories of third parties with whom the business shares PI;

   - the right to know what PI a business sells about consumers, as specified, including the categories of PI that the business sold about the consumer and the categories of third parties to whom the PI was sold, by category or categories of PI for each third party to whom the PI was sold;

   - the right to access the specific pieces of information a business has collected about the consumer;

   - the right to delete information that a business has collected from the consumer;

- the right to opt-out of the sale of the consumer's PI if over 16 years of age, and the right to opt-in, as specified if the consumer is a minor; and the right to equal service and price, despite exercising any of these rights. (Civ. Code Sec. 1798.100 et seq.)

9) Provides various exemptions under the CCPA, including for, among other things medical information and health care providers governed by the CMIA (Civ. Code Sec. 56 et seq.), and providers of health care and protected health information that is collected by a covered entity or business associate governed by the HIPAA, as specified. (Civ. Code Sec. 1798.145(c).)

10) Establishes the California Privacy Rights Act of 2020 (CPRA), which amends CCPA and creates the California Privacy Protection Agency (PPA), which is charged with implementing these privacy laws, promulgating regulations, and carrying out enforcement actions. (Civ. Code Sec. 798.100 et seq.; Proposition 24 (2020).)

FISCAL EFFECT: Unknown

COMMENTS:

1) Purpose of this bill: This bill seeks to ensure that commercial websites and applications that collect consumer mental health data are subject to California's medical privacy laws. This bill is author-sponsored.

2) **Author's statement**: According to the author:

> Certain apps and other digital services that provide mental healthcare services use predatory advertising, data mining and misleading privacy standards to create a false sense of security for consumers. When Californians are at their most vulnerable point, they must know their information is safe and their health information is private and secure. This bill equalizes privacy standards across digital and in person care, treating mental health information as CMIA covered health information.

3) **Mental health apps collect sensitive information, not all of which is protected by medical privacy laws**: Mental health apps take a variety of forms. Some attempt to replicate a traditional provider-patient interaction. Others use large datasets to simulate the therapeutic relationship using "chatbots." These apps may also take a less conventional approach by supporting mindfulness exercises, self-diagnosis, and "brain training" activities based on cognitive-behavioral principles. Many ask consumers to complete a questionnaire about their mental health symptoms. These apps provide an alternative for consumers who want to avoid the potential stigma of diagnosis and research suggests users may be more candid when interacting with technology than with other humans. Yet for the very same reasons that users decline traditional mental healthcare, they will likely want to keep their mental health app data private. Not only could that information, if compromised, cause shame or embarrassment, but it could also lead to discrimination in employment, housing, healthcare, or other areas.

Unfortunately, the data collected and generated as consumers use mental health apps are not necessarily treated confidentially by app developers and generally classified as consumer

information under the law, rather than medical information. Increasingly, experts have expressed concern about the potential loss of privacy resulting from the use of these apps. Mental health information is highly sensitive, and privacy breaches have significant repercussions beyond identity theft and healthcare system fraud. Poor data security on these apps can lead to emotional harms, heightened anxiety, exploitative advertising targeting, and social impacts, affecting an individual's credit rating, employment, and housing. Consumer Reports recently evaluated seven of the most popular mental health apps, representing a range of approaches, to gain insight into how consumer PI is used when they engage with a mental health app. Consumer Reports (CR) reports:

> Even apps that say they are covered by HIPAA may use data in ways consumers don't expect. One point that isn't always kept confidential is that you're using a mental health app in the first place.
>
> Consumer Reports saw the BetterHelp, Sanity & Self, Talkspace, and Wysa apps all sending data to Facebook. Separately, Youper told us it shares data with the social media titan, though we didn't see that occur during our testing.
>
> Facebook's policies say that sensitive data like your medical symptoms isn't used for targeted ads. However, the company doesn't treat the fact that you're using a mental health app the same way. And according to a Facebook spokesperson, the company hasn't signed a business associate agreement that would restrict its use of identifying data with any of the app developers in our study.
>
> The companies that responded to our questions say they share only limited information with Facebook. BetterHelp president Alon Matas told CR that Facebook "can use data from other apps on an aggregated level, not on an individual basis. It says so explicitly both in their engagement with advertisers like us, as well as in their public information." A Talkspace spokesperson says the company collects data using Facebook's tools to optimize ads for Talkspace that the company might run in the future, though the data isn't being used that way right now. And, the company says, the data includes only details about users' interactions before they start therapy. (Germain, *Mental Health Apps Aren't All As Private As You May Think*, Consumer Reports (Mar. 2, 2021).)

Consumer Reports further reported that most of the mental health apps they analyzed share data with a number of outside companies, and for the most part the consumer is not notified of which companies those are or the purposes for which the information is shared. CR writes, "several mental health apps say in their privacy policies that your data may be shared with researchers. You might assume that means your information is combined with data from other users, to help doctors and university researchers learn more about how to treat mental health. Sharing patient data for public health and other academic research is a standard practice in healthcare. However, some of the privacy policies we looked at blur the lines between medical research and marketing or app design projects." (Id.)

In short, medical privacy laws like HIPAA and California's CMIA do not protect data simply because it is related to an individual's health. Those laws only apply to information collected and held by "covered entities," such as insurance companies, healthcare providers, and the "business associates" that provide them with services such as billing. Business associates are

required to sign agreements that restrict them from doing anything with the data other than help the providers run their businesses, unless they get explicit permission from a patient.

This bill seeks to ensure that the blurry lines between health data and consumer data are clarified in a manner that protects an individual's sensitive mental health information regardless of whether it is collected by a provider of health care or a direct-to-consumer app.

4) **State and federal medical privacy laws**: HIPAA, enacted in 1996, guarantees privacy protection for individuals with regards to specific health information. (Pub.L. 104–191, 110 Stat. 1936.) Generally, protected health information (PHI) is any information held by a covered entity which concerns health status, provision of health care, or payment for health care that can be connected to an individual. HIPAA privacy regulations require health care providers and organizations to develop and follow procedures that ensure the confidentiality and security of PHI when it is transferred, received, handled, or shared. HIPAA further requires reasonable efforts when using, disclosing, or requesting PHI, to limit disclosure of that information to the minimum amount necessary to accomplish the intended purpose.

California's CMIA also protects medical information and restricts its disclosure by health care providers, and health care service plans, as specified. Under existing law, a corporation organized for the purpose of maintaining medical information in order to make that information available to the patient, or a provider at the request of the patient for purposes of diagnosis or treatment, is deemed to be a provider of health care subject to the requirements of the CMIA. AB 658 (Calderon, Ch. 296, Stats. 2013) further ensured that any business that offers software or hardware to consumers, including a mobile application or other related device, that is designed to maintain medical information or for the diagnosis, treatment, or management of a medical condition of the individual, is also subject to the CMIA. While the chaptered version of AB 658 had no recorded opposition, the Chamber of Commerce opposed an earlier version of that bill because it was "unclear which mobile application software providers [would] be included. There are many small companies offering a variety of mobile apps that may be captured in the bill. For instance, it is difficult to determine if an app used for health fitness would be captured." To address those concerns, the author of AB 658 accepted amendments in the Assembly Judiciary Committee that clarified that the provisions of the bill would apply only to "medical information", as defined in CMIA, meaning information that originates or is held by a covered entity.

Subsequently, the Legislature considered AB 2688 (Gordon, 2016) which sought to regulate the disclosure of information in possession of or derived from a commercial health monitoring program to a third party without providing clear and conspicuous notice and obtaining the consumer's affirmative consent. The introduced version of that bill would have expanded the CMIA to cover commercial health information devices (such as the "FitBit"), but was amended on March 28, 2016 to separate its provisions from CMIA and shift those requirements to a separate chapter in the Business and Professions Code. When AB 2688 ultimately died on the Senate floor, privacy advocates were in opposition because the bill did not create strong enough protections for privacy, whereas a coalition of technology companies were also in opposition because the bill in its current form would result in "unintended consequences, logistical difficulties, and consumer harm."

As with the bills noted above, this Committee must once again consider the question of whether health and medical information are adequately protected by existing consumer

privacy laws (i.e, the CCPA and CPRA), which allow consumers to opt-out of the sale of their PI rather than requiring consent for its disclosure.

This bill would incorporate information collected or generated by mental health applications and businesses that offer mental health applications to consumers into CMIA. This would ensure that businesses who offer mental health apps cannot sell or disclose an individual's information that was collected by the app without prior authorization, unless it is to another person subject to CMIA and for a specified purpose such as diagnosis, treatment, or billing. This approach is a departure from the March 24 version of this bill, which would have created a new statutory scheme for mental health applications and their developers, instead of having medical privacy laws or the CCPA/CPRA apply. Expressing concern over this approach, the California Chamber of Commerce wrote:

> [E]xisting medical privacy laws already contain numerous privacy protections around the use of a patient's medical information, while allowing that information to be shared when necessary for treatment. For example, California's Confidentiality of Medical information Act (CMIA) generally allows patients to keep personal health information confidential and decide whether and when to share that information. Separately, the California Consumer Privacy Act (CCPA) of 2018, and the California Privacy Protection Act (CPRA) of 2020 amending that act, grants consumers various rights to protect the privacy their personal information, including sensitive personal information. These rights include the right to know if the business collects sensitive PI, the categories of sensitive PI collected and the purposes for which they are collected or used, and whether that information is sold or shared. Consumers can also opt out of the sale and sharing of their personal information and otherwise limit the use and disclosure of sensitive PI. Notably, if a provider or other covered entity protects other types of personal information the same as medical information under CMIA, or the same as protected health information under the federal Health Insurance Portability and Accountability Act (HIPAA), they are exempted from the CCPA/CPRA. Stated another way, existing law ensures that personal information provided to these mental health applications are protected either under the privacy rights afforded by the CCPA/CPRA or the CMIA/HIPAA. At this point, it is unclear what, if any, inadequacies exist at law in protecting this type of personal information.

5) **Requiring businesses that provide mental health applications to communicate to prior violations of law to the healthcare providers with whom they contract**: Prior to finalizing an agreement between a business that offers a mental health app and a health care provider, this bill would require the business to disclose to the healthcare provider any data breaches or known violations of CMIA in the preceding three years. The author contends that this will help healthcare providers separate the good actors in this space from the bad, which is especially important when persons with whom there is an established relationship are making recommendations to patients about their mental health care.

   This approach is an alternative to the March 24 version of this bill which required mental health application developers to register with the Attorney General (AG) and required the AG to create a publicly available registry of the mental health apps offered in this State. In opposition, the American Telemedicine Association wrote:

The requirement would not afford California patients with any substantial additional protections as far as privacy is concerned. While the requirements in §1798.100.151(a) would serve to protect consumers' information, it is unclear which protections would be provided to consumers by allowing – as the Senate Health Committee report noted – the California "AG's authority [to] expand to mobile apps to track violations of privacy laws." Any California provider operating on a mental health application who has access to a patient's private health care information is subject to California's existing laws regarding the sharing of such information and could be held accountable by the appropriate regulatory boards were he or she to breach the patient's confidentiality.

Second, there are thousands of entities and applications outside of the mental health virtual care space which store consumer information that are not required to register with the California Attorney General. Will the Legislature start requiring any entity whose application collects consumer information and uses it in the delivery of services to register with the California Attorney General? If not, the Legislature would be holding mental health care applications to a higher standard than applications in other fields (including other health care sectors), placing undue administrative burdens on those working in the mental health care space and potentially limiting access to care in the process.

6) **Mockup of amendments reflected in this analysis**: The author has agreed to strike the contents of AB 2089 as in print on March 24, 2022 and instead amend the Confidentiality of Medical Information Act. This analysis is based on the mockup below.

SECTION 1. Section 56.05 of the Civil Code is amended to read:

56.05. For purposes of this part:
(a) "Authorization" means permission granted in accordance with Section 56.11 or 56.21 for the disclosure of medical information.
(b) "Authorized recipient" means a person who is authorized to receive medical information pursuant to Section 56.10 or 56.20.
(c) "Confidential communications request" means a request by a subscriber or enrollee that health care service plan communications containing medical information be communicated to them at a specific mail or email address or specific telephone number, as designated by the subscriber or enrollee.
(d) "Contractor" means a person or entity that is a medical group, independent practice association, pharmaceutical benefits manager, or a medical service organization and is not a health care service plan or provider of health care. "Contractor" does not include insurance institutions as defined in subdivision (k) of Section 791.02 of the Insurance Code or pharmaceutical benefits managers licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).
(e) "Enrollee" has the same meaning as that term is defined in Section 1345 of the Health and Safety Code.
(f) "Health care service plan" means an entity regulated pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).
(g) "Licensed health care professional" means a person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, the

Osteopathic Initiative Act or the Chiropractic Initiative Act, or Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(h) "Marketing" means to make a communication about a product or service that encourages recipients of the communication to purchase or use the product or service.

"Marketing" does not include any of the following:

(1) Communications made orally or in writing for which the communicator does not receive direct or indirect remuneration, including, but not limited to, gifts, fees, payments, subsidies, or other economic benefits, from a third party for making the communication.

(2) Communications made to current enrollees solely for the purpose of describing a provider's participation in an existing health care provider network or health plan network of a Knox-Keene licensed health plan to which the enrollees already subscribe; communications made to current enrollees solely for the purpose of describing if, and the extent to which, a product or service, or payment for a product or service, is provided by a provider, contractor, or plan or included in a plan of benefits of a Knox-Keene licensed health plan to which the enrollees already subscribe; or communications made to plan enrollees describing the availability of more cost-effective pharmaceuticals.

(3) Communications that are tailored to the circumstances of a particular individual to educate or advise the individual about treatment options, and otherwise maintain the individual's adherence to a prescribed course of medical treatment, as provided in Section 1399.901 of the Health and Safety Code, for a chronic and seriously debilitating or life-threatening condition as defined in subdivisions (d) and (e) of Section 1367.21 of the Health and Safety Code, if the health care provider, contractor, or health plan receives direct or indirect remuneration, including, but not limited to, gifts, fees, payments, subsidies, or other economic benefits, from a third party for making the communication, if all of the following apply:

(A) The individual receiving the communication is notified in the communication in typeface no smaller than 14-point type of the fact that the provider, contractor, or health plan has been remunerated and the source of the remuneration.

(B) The individual is provided the opportunity to opt out of receiving future remunerated communications.

(C) The communication contains instructions in typeface no smaller than 14-point type describing how the individual can opt out of receiving further communications by calling a toll-free number of the health care provider, contractor, or health plan making the remunerated communications. Further communication shall not be made to an individual who has opted out after 30 calendar days from the date the individual makes the opt-out request.

(i) "Medical information" means any individually identifiable information, in electronic or physical form, in possession of or derived from a provider of health care, health care service plan, pharmaceutical company, or contractor regarding a patient's medical history, ***mental health application information***, mental or physical condition, or treatment. "Individually identifiable" means that the medical information includes or contains any element of personal identifying information sufficient to allow identification of the individual, such as the patient's name, address, electronic mail address, telephone number, or social security number, or other information that, alone or in combination with other publicly available information, reveals the identity of the individual.

(j) "Patient" means a natural person, whether or not still living, who received health care services from a provider of health care and to whom medical information pertains.

(k) "Pharmaceutical company" means a company or business, or an agent or representative thereof, that manufactures, sells, or distributes pharmaceuticals, medications, or prescription drugs. "Pharmaceutical company" does not include a pharmaceutical benefits manager, as included in subdivision (c), or a provider of health care.

(l) "Protected individual" means any adult covered by the subscriber's health care service plan or a minor who can consent to a health care service without the consent of a parent or legal guardian, pursuant to state or federal law. "Protected individual" does not include an individual that lacks the capacity to give informed consent for health care pursuant to Section 813 of the Probate Code.

(m) "Provider of health care" means a person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code; a person licensed pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act; a person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code; or a clinic, health dispensary, or health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Provider of health care" does not include insurance institutions as defined in subdivision (k) of Section 791.02 of the Insurance Code.

(n) "Sensitive services" means all health care services related to mental or behavioral health, sexual and reproductive health, sexually transmitted infections, substance use disorder, gender affirming care, and intimate partner violence, and includes services described in Sections 6924, 6925, 6926, 6927, 6928, 6929, and 6930 of the Family Code, and Sections 121020 and 124260 of the Health and Safety Code, obtained by a patient at or above the minimum age specified for consenting to the service specified in the section.

(o) "Subscriber" has the same meaning as that term is defined in Section 1345 of the Health and Safety Code.

(p) "Mental health application" means a mobile-based application that collects mental health application information from a consumer, markets itself as facilitating mental health services to a consumer, and uses the information to facilitate mental health services to a consumer.

(q) "Mental health application information" means information related to a consumer's inferred or diagnosed mental health or substance use disorder, as defined in Section 1374.72 of the Health and Safety Code, collected by a mental health application.

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

56.06. (a) Any business organized for the purpose of maintaining medical information, as defined in subdivision (j) of Section 56.05, in order to make the information available to an individual or to a provider of health care at the request of the individual or a provider of health care, for purposes of allowing the individual to manage ~~his or her~~ *their* information, or for the diagnosis and treatment of the individual, shall be deemed to be a provider of health care subject to the requirements of this part. However, this section shall not be construed to make a business specified in this subdivision a provider of health care for purposes of any law other than this part, including laws that specifically incorporate by reference the definitions of this part.

(b) Any business that offers software or hardware to consumers, including a mobile application or other related device that is designed to maintain medical information, as defined in subdivision (j) of Section 56.05, in order to make the information available to an individual or a provider of health care at the request of the individual or a provider of health care, for purposes of allowing the individual to manage ~~his or her~~ *their* information, or for the diagnosis, treatment, or management of a medical condition of the individual, shall be deemed to be a provider of health care subject to the requirements of this part. However, this section shall not be construed to make a business specified in this subdivision a provider of health care for purposes of any law other than this part, including laws that specifically incorporate by reference the definitions of this part.

(c) Any business that is licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code that is authorized to receive or receives identification cards issued pursuant to Section 11362.71 of the Health and Safety Code or information contained in

a physician's recommendation issued in accordance with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code shall be deemed to be a provider of health care subject to the requirements of this part. However, this section shall not be construed to make a business specified in this subdivision a provider of health care for purposes of any law other than this part, including laws that specifically incorporate by reference the definitions of this part.

(d) Any business that offers a mental health application to a consumer for the purpose of allowing the individual to manage their information, or for the diagnosis, treatment, or management of a medical condition of the individual, shall be deemed to be a provider of health care subject to the requirements of this part.

~~(d)~~

(e) Any business described in this section shall maintain the same standards of confidentiality required of a provider of health care with respect to medical information disclosed to the business.

~~(e)~~

(f) Any business described in this section is subject to the penalties for improper use and disclosure of medical information prescribed in this part.

SEC. 3. Chapter 4.1 (commencing with Section 56.251) is added to Part 2.6 of Division 1 of the Civil Code, to read:

CHAPTER 4.1. NOTIFICATIONS

56.251. When partnering with a provider of health care to provide mental health application services, any business that offers a mental health application shall notify the provider of health care of all reportable data breaches and known violations of this part in the past three years before finalizing an agreement between the entities.

7) **Prior legislation**: AB 1436 (Chau, 2021) would have prohibited a business that offers a "personal health record system" from knowingly using or disclosing the "personal health record information" of a person without first obtaining a signed authorization, as specified. This bill was held under submission in the Senate Appropriations Committee.

AB 1252 (Chau, 2021) would have revised CMIA to define personal health record (PHR) and deem a business that offers PHR software or hardware to a consumer for purposes of allowing the individual to manage their information, or for the diagnosis, treatment, or management of a medical condition of the individual, to be a "health care provider." This bill was never taken up on the Assembly floor.

AB 2280 (Chau, 2020) was identical to AB 1252 (Chau). It was never taken up in the Senate Judiciary Committee.

AB 2167 (Chau, 2018) was substantially similar to AB 2280 (Chau). AB 2167 died on the Senate floor.

AB 2935 (Chau, 2018) would have prohibited the operator of a commercial health monitoring program from intentionally sharing or disclosing a consumers individually identifiable health monitoring information to or with a third party without first obtaining the consumers consent.

AB 2688 (Gordon, 2016) *See* Comment 4.

AB 2747 (Assembly Committee on Judiciary, Ch. 913, Stats. 2014) extends CMIA provisions to any business that offers software or hardware to consumers, including a mobile application or other related device that is designed to maintain medical information in order to make the information available to an individual or a provider of health care at the request of the individual or a provider of health care.

AB 658 (Calderon, Ch. 296, Stats. 2013) *see* Comment 4.

AB 1298 (Jones, Ch. 699, Stats. 2007) subjects any business organized to maintain medical information for purposes of making that information available to an individual or to a health care provider, as specified, to the provisions of CMIA.

8) **Double referral**: This bill was referred to the Assembly Health Committee where it was heard on April 5, 2022 and passed out 12-1.

REGISTERED SUPPORT / OPPOSITION:

Support

County Behavioral Health Directors Association of California
Electronic Frontier Foundation

Opposition

American Telemedicine Association (unless amended)

Analysis Prepared by: Nichole Rocha / P. & C.P. / (916) 319-2200