
State Government & Tribal Affairs
Committee

HB 1573

Brief Description: Protecting financial and medical information presented to the board of accountancy.

Sponsors: Representatives Appleton, Newhouse, Conway, Hunt, Green, Armstrong, Condotta and Kelley; by request of State Board of Accountancy.

Brief Summary of Bill

- Exempts certain financial and medical records of Certified Public Accountants (CPA), CPA firms, and clients from disclosure under the Public Records Act and from discovery, subpoena, or other means of legal process or introduction into evidence in any civil action or arbitration.

Hearing Date: 2/3/09

Staff: Tracey O'Brien (786-7196)

Background:

The Public Records Act (PRA) requires that all state and local government agencies make all public records available for public inspection and copying unless they fall within certain statutory exemptions. The provisions requiring public records disclosure must be interpreted liberally and the exemptions narrowly in order to effectuate a general policy favoring disclosure. The PRA requires agencies to respond to public records requests within five business days. The agency must either provide the records, provide a reasonable estimate of the time the agency will take to respond to this request, or deny the request. Additional time may be required to respond to a request where the agency needs to notify third parties or agencies affected by the request or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request. For practical purposes, the law treats a failure to properly respond as denial. A denial of a public records request must be accompanied by a written

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

statement of the specific reasons for denial. Any person who is denied the opportunity to inspect or copy a public record may file a motion to show cause in Superior Court why the agency has refused access to the record. The burden of proof rests with the agency to establish that the refusal is consistent with the statute that exempts or prohibits disclosure. Judicial review of the agency decision is de novo and the court may examine the record in camera. Any person who prevails against an agency in any action in the courts seeking the right to inspect or copy any public record shall be awarded all costs, including reasonable attorney fees. In addition, the court has the discretion to award such person no less than \$5 but not to exceed \$100 for each day he or she was denied the right to inspect or copy the public record. The court's discretion lies in the amount per day, but the court may not adjust the number of days for which the agency is fined.

A Certified Public Accountant (CPA) or licensed firm, or any of their employees, cannot disclose confidential information obtained in the course of a professional transaction except with the consent of the client or former client or as disclosure may be required by law, legal process or the standards of the profession.

The Board of Accountancy (Board) oversees the issuance of licenses to practice public accounting, adopts rules of professional conduct for all licensees, certificate holders and non-licensee owners of licensed firms, rules for registration and to investigate licensing violations.

Summary of Bill:

The financial and confidential medical records of CPAs and clients are not subject to disclosure under the PRA, are privileged and are not subject to discovery, subpoena, or other means of legal process or introduction into evidence in any civil action or arbitration. Information, documents, or records that are publicly available are not to be construed as exempt from disclosure or discovery or use in any civil action or arbitration merely because they were presented or considered in connection with a board investigation or application to the Board in conjunction with licensure.

These financial and medical records include, but are not limited to: asset transfer documents and related legal documents prepared by those authorized to practice law; the CPA's work product derived from confidential financial records of clients; financial statements; tax returns; and confidential medical information pertaining to the CPA or clients that are provided to the Board in the course of an investigation or in conjunction with an application for licensure.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.