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HEALTH AND SAFETY CODE - HSC

DIVISION 101. ADMINISTRATION OF PUBLIC HEALTH [100100 - 101997] (*Division 101 added by Stats. 1995, Ch. 415, Sec. 3.*)

PART 4. SPECIAL HEALTH AUTHORITIES [101525 - 101881] (*Part 4 added by Stats. 1995, Ch. 415, Sec. 3.*)

CHAPTER 6. Other [101860 - 101881] (*Chapter 6 added by Stats. 1997, Ch. 927, Sec. 2.*)

ARTICLE 5. Enforcement of the Disclosure of Records [101875- 101875.] (*Article 5 added by Stats. 1997, Ch. 927, Sec. 2.*)

101875. (a) Any person may institute proceedings for injunctive or declarative relief or writ of mandate in any court of competent jurisdiction to enforce his or her right to inspect or to receive a copy of any record or class of records under this chapter. In addition, the corporation may institute proceedings for declaratory relief or validation of its policy or policies under this article, or elect to interplead the records sought to be disclosed. In the event the corporation institutes proceedings or interpleads records, the corporation shall give written notice, to the person or persons with an interest in disclosure or nondisclosure of the records, of the right to participate in the proceedings. The times for responsive pleadings and for hearings in these proceedings shall be set by the judge of the court with the object of securing a decision as to these matters at the earliest possible time.

(b) Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain records are being improperly withheld from disclosure, the court shall order the officer or person charged with withholding the records to disclose the record or show cause why he or she should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and any oral argument, and additional evidence as the court may allow.

(c) If the court finds that the corporation's decision to refuse disclosure is not justified under Article 4 (commencing with Section 101870), the court shall order the corporation to make the record available. If the judge determines that the corporation was justified in refusing to make the record available, he or she shall return the item to the corporation without disclosing its content with an order supporting the decision refusing disclosure.

(d) An order of the court, either directing disclosure by the corporation or supporting the decision of the corporation refusing disclosure, is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken, but shall be immediately reviewable by petition to the appellate court for the issuance of an extraordinary writ. Upon entry of any order pursuant to this section, a party shall, in order to obtain review of the order, file a petition within 20 days after service upon him or her of a written notice of entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the notice is served by mail, the period within which to file the petition shall be increased by five days. A stay of an order or judgment shall not be granted unless the petitioning party demonstrates it will otherwise sustain irreparable damage and probable success on the merits. Any person who fails to obey the order of the court shall be cited to show cause why he or she is not in contempt of court.

(*Added by Stats. 1997, Ch. 927, Sec. 2. Effective January 1, 1998.*)