

ASSEMBLY BILL

No. 502

Introduced by Assembly Member Chau

February 23, 2015

An act to amend Sections 1924, 1926, and 1931 of the Business and Professions Code, to amend Sections 13401 and 13401.5 of the Corporations Code, to add Section 1374.196 to the Health and Safety Code, and to add Section 10120.4 to the Insurance Code, relating to dental hygiene.

LEGISLATIVE COUNSEL'S DIGEST

AB 502, as introduced, Chau. Dental hygiene.

(1) Existing law, the Dental Practice Act, provides for the licensure and regulation of registered dental hygienists, registered dental hygienists in extended functions, and registered dental hygienists in alternative practice by the Dental Hygiene Committee of California.

Existing law authorizes a registered dental hygienist in alternative practice to perform various duties in specified settings, including dental health professional shortage areas, as certified by the Office of Statewide Health Planning and Development.

This bill would require an alternative dental hygiene practice established within a certified shortage area to continue regardless of certification.

Existing law authorizes a registered dental hygienist in alternative practice to provide services to a patient without obtaining written verification that the patient has been examined by a dentist or physician and surgeon licensed to practice in this state. However, under existing law, if the registered dental hygienist in alternative practice provides services to a patient 18 months or more after the first date that he or

she provides services to a patient, he or she is required to obtain written verification, including a prescription for dental hygiene services, that the patient has been examined by a dentist or physician and surgeon licensed to practice in this state.

This bill would delete that written verification and prescription requirement.

(2) Existing law, the Moscone-Knox Professional Corporation Act, prohibits a professional corporation from rendering professional services in this state without a currently effective certificate of registration issued by the governmental agency regulating the profession in which the corporation is or proposes to be engaged and excepts any professional corporation rendering professional services by persons duly licensed by specified state entities from that requirement. Existing law authorizes specified healing arts practitioners to be shareholders, officers, directors, or professional employees of a designated professional corporation, subject to certain limitations relating to ownership of shares.

This bill would additionally except any professional corporation rendering professional services by persons duly licensed by the Dental Hygiene Committee of California from the certificate of registration requirement. The bill would authorize dental assistants and licensed dentists to be shareholders, officers, directors, or professional employees of a registered dental hygienist in alternative practice corporation.

(3) Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law provides certain standards that govern health care service plan contracts covering dental services, health insurance policies covering dental services, specialized health care service plan contracts covering dental services, and specialized health insurance policies covering dental services.

This bill would require health care service plan contracts covering dental services, health insurance policies covering dental services, specialized health care service plan contracts covering dental services, and specialized health insurance policies covering dental services issued, amended, or renewed on or after January 1, 2016, to reimburse registered dental hygienists in alternative practice for performing dental hygiene services that may lawfully be performed by registered dental hygienists and that are reimbursable under the contracts or policies. The bill would also require the plan or insurer to use the same fee schedule for

reimbursing both registered dental hygienists and registered dental hygienists in alternative practice. Because a willful violation of the bill’s provisions by a health care service plan covering dental services or a specialized health care service plan covering dental services would be a crime, it would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 1924 of the Business and Professions
2 Code is amended to read:

3 1924. A person licensed as a registered dental hygienist who
4 has completed the prescribed classes through the Health Manpower
5 Pilot Project (HMPP) and who has established an independent
6 practice under the HMPP by June 30, 1997, shall be deemed to
7 have satisfied the licensing requirements under Section 1922, and
8 shall be authorized to continue to operate the practice he or she
9 presently operates, so long as he or she follows the ~~requirements~~
10 ~~for prescription and functions as specified in Sections 1922, 1925,~~
11 ~~1926, 1927, 1928, and 1930, and 1931,~~ and subdivision (b) of
12 Section 1929, and as long as he or she continues to personally
13 practice and operate the practice or until he or she sells the practice
14 to a licensed dentist.

15 SEC. 2. Section 1926 of the Business and Professions Code is
16 amended to read:

17 1926. A registered dental hygienist in alternative practice may
18 perform the duties authorized pursuant to subdivision (a) of Section
19 1907, subdivision (a) of Section 1908, and subdivisions (a) and
20 (b) of Section 1910 in the following settings:

- 21 (a) Residences of the homebound.
- 22 (b) Schools.
- 23 (c) Residential facilities and other institutions.
- 24 (d) Dental health professional shortage areas, as certified by the
- 25 Office of Statewide Health Planning and Development in

1 accordance with existing office guidelines. *An alternative dental*
2 *hygiene practice established within a certified shortage area shall*
3 *continue regardless of certification.*

4 SEC. 3. Section 1931 of the Business and Professions Code is
5 amended to read:

6 1931. ~~(a)-(1)~~ A registered dental hygienist in alternative
7 practice may provide services to a patient without obtaining written
8 verification that the patient has been examined by a dentist or
9 physician and surgeon licensed to practice in this state.

10 ~~(2) If the dental hygienist in alternative practice provides~~
11 ~~services to a patient 18 months or more after the first date that he~~
12 ~~or she provides services to a patient, he or she shall obtain written~~
13 ~~verification that the patient has been examined by a dentist or~~
14 ~~physician and surgeon licensed to practice in this state. The~~
15 ~~verification shall include a prescription for dental hygiene services~~
16 ~~as described in subdivision (b).~~

17 ~~(b) A registered dental hygienist in alternative practice may~~
18 ~~provide dental hygiene services for a patient who presents to the~~
19 ~~registered dental hygienist in alternative practice a written~~
20 ~~prescription for dental hygiene services issued by a dentist or~~
21 ~~physician and surgeon licensed to practice in this state. The~~
22 ~~prescription shall be valid for a time period based on the dentist's~~
23 ~~or physician and surgeon's professional judgment, but not to exceed~~
24 ~~two years from the date it was issued.~~

25 ~~(c) (1) The committee may seek to obtain an injunction against~~
26 ~~any registered dental hygienist in alternative practice who provides~~
27 ~~services pursuant to this section, if the committee has reasonable~~
28 ~~cause to believe that the services are being provided to a patient~~
29 ~~who has not received a prescription for those services from a dentist~~
30 ~~or physician and surgeon licensed to practice in this state.~~

31 ~~(2) Providing services pursuant to this section without obtaining~~
32 ~~a prescription in accordance with subdivision (b) shall constitute~~
33 ~~unprofessional conduct on the part of the registered dental hygienist~~
34 ~~in alternative practice, and reason for the committee to revoke or~~
35 ~~suspend the license of the registered dental hygienist in alternative~~
36 ~~practice pursuant to Section 1947.~~

37 SEC. 4. Section 13401 of the Corporations Code is amended
38 to read:

39 13401. As used in this part:

1 (a) “Professional services” means any type of professional
2 services that may be lawfully rendered only pursuant to a license,
3 certification, or registration authorized by the Business and
4 Professions Code, the Chiropractic Act, or the Osteopathic Act.

5 (b) “Professional corporation” means a corporation organized
6 under the General Corporation Law or pursuant to subdivision (b)
7 of Section 13406 that is engaged in rendering professional services
8 in a single profession, except as otherwise authorized in Section
9 13401.5, pursuant to a certificate of registration issued by the
10 governmental agency regulating the profession as herein provided
11 and that in its practice or business designates itself as a professional
12 or other corporation as may be required by statute. However, any
13 professional corporation or foreign professional corporation
14 rendering professional services by persons duly licensed by the
15 Medical Board of California or any examining committee under
16 the jurisdiction of the board, the Osteopathic Medical Board of
17 California, the Dental Board of California, *the Dental Hygiene*
18 *Committee of California*, the California State Board of Pharmacy,
19 the Veterinary Medical Board, the California Architects Board,
20 the Court Reporters Board of California, the Board of Behavioral
21 Sciences, the Speech-Language Pathology and Audiology Board,
22 the Board of Registered Nursing, or the State Board of Optometry
23 shall not be required to obtain a certificate of registration in order
24 to render those professional services.

25 (c) “Foreign professional corporation” means a corporation
26 organized under the laws of a state of the United States other than
27 this state that is engaged in a profession of a type for which there
28 is authorization in the Business and Professions Code for the
29 performance of professional services by a foreign professional
30 corporation.

31 (d) “Licensed person” means any natural person who is duly
32 licensed under the provisions of the Business and Professions
33 Code, the Chiropractic Act, or the Osteopathic Act to render the
34 same professional services as are or will be rendered by the
35 professional corporation or foreign professional corporation of
36 which he or she is or intends to become, an officer, director,
37 shareholder, or employee.

38 (e) “Disqualified person” means a licensed person who for any
39 reason becomes legally disqualified (temporarily or permanently)
40 to render the professional services that the particular professional

1 corporation or foreign professional corporation of which he or she
 2 is an officer, director, shareholder, or employee is or was rendering.

3 SEC. 5. Section 13401.5 of the Corporations Code is amended
 4 to read:

5 13401.5. Notwithstanding subdivision (d) of Section 13401
 6 and any other provision of law, the following licensed persons
 7 may be shareholders, officers, directors, or professional employees
 8 of the professional corporations designated in this section so long
 9 as the sum of all shares owned by those licensed persons does not
 10 exceed 49 percent of the total number of shares of the professional
 11 corporation so designated herein, and so long as the number of
 12 those licensed persons owning shares in the professional
 13 corporation so designated herein does not exceed the number of
 14 persons licensed by the governmental agency regulating the
 15 designated professional corporation. This section does not limit
 16 employment by a professional corporation designated in this section
 17 of to only those licensed professionals listed under each
 18 subdivision. Any person duly licensed under Division 2
 19 (commencing with Section 500) of the Business and Professions
 20 Code, the Chiropractic Act, or the Osteopathic Act may be
 21 employed to render professional services by a professional
 22 corporation designated in this section.

- 23 (a) Medical corporation.
- 24 (1) Licensed doctors of podiatric medicine.
- 25 (2) Licensed psychologists.
- 26 (3) Registered nurses.
- 27 (4) Licensed optometrists.
- 28 (5) Licensed marriage and family therapists.
- 29 (6) Licensed clinical social workers.
- 30 (7) Licensed physician assistants.
- 31 (8) Licensed chiropractors.
- 32 (9) Licensed acupuncturists.
- 33 (10) Naturopathic doctors.
- 34 (11) Licensed professional clinical counselors.
- 35 (12) Licensed physical therapists.
- 36 (b) Podiatric medical corporation.
- 37 (1) Licensed physicians and surgeons.
- 38 (2) Licensed psychologists.
- 39 (3) Registered nurses.
- 40 (4) Licensed optometrists.

- 1 (5) Licensed chiropractors.
- 2 (6) Licensed acupuncturists.
- 3 (7) Naturopathic doctors.
- 4 (8) Licensed physical therapists.
- 5 (c) Psychological corporation.
- 6 (1) Licensed physicians and surgeons.
- 7 (2) Licensed doctors of podiatric medicine.
- 8 (3) Registered nurses.
- 9 (4) Licensed optometrists.
- 10 (5) Licensed marriage and family therapists.
- 11 (6) Licensed clinical social workers.
- 12 (7) Licensed chiropractors.
- 13 (8) Licensed acupuncturists.
- 14 (9) Naturopathic doctors.
- 15 (10) Licensed professional clinical counselors.
- 16 (d) Speech-language pathology corporation.
- 17 (1) Licensed audiologists.
- 18 (e) Audiology corporation.
- 19 (1) Licensed speech-language pathologists.
- 20 (f) Nursing corporation.
- 21 (1) Licensed physicians and surgeons.
- 22 (2) Licensed doctors of podiatric medicine.
- 23 (3) Licensed psychologists.
- 24 (4) Licensed optometrists.
- 25 (5) Licensed marriage and family therapists.
- 26 (6) Licensed clinical social workers.
- 27 (7) Licensed physician assistants.
- 28 (8) Licensed chiropractors.
- 29 (9) Licensed acupuncturists.
- 30 (10) Naturopathic doctors.
- 31 (11) Licensed professional clinical counselors.
- 32 (g) Marriage and family therapist corporation.
- 33 (1) Licensed physicians and surgeons.
- 34 (2) Licensed psychologists.
- 35 (3) Licensed clinical social workers.
- 36 (4) Registered nurses.
- 37 (5) Licensed chiropractors.
- 38 (6) Licensed acupuncturists.
- 39 (7) Naturopathic doctors.
- 40 (8) Licensed professional clinical counselors.

- 1 (h) Licensed clinical social worker corporation.
- 2 (1) Licensed physicians and surgeons.
- 3 (2) Licensed psychologists.
- 4 (3) Licensed marriage and family therapists.
- 5 (4) Registered nurses.
- 6 (5) Licensed chiropractors.
- 7 (6) Licensed acupuncturists.
- 8 (7) Naturopathic doctors.
- 9 (8) Licensed professional clinical counselors.
- 10 (i) Physician assistants corporation.
- 11 (1) Licensed physicians and surgeons.
- 12 (2) Registered nurses.
- 13 (3) Licensed acupuncturists.
- 14 (4) Naturopathic doctors.
- 15 (j) Optometric corporation.
- 16 (1) Licensed physicians and surgeons.
- 17 (2) Licensed doctors of podiatric medicine.
- 18 (3) Licensed psychologists.
- 19 (4) Registered nurses.
- 20 (5) Licensed chiropractors.
- 21 (6) Licensed acupuncturists.
- 22 (7) Naturopathic doctors.
- 23 (k) Chiropractic corporation.
- 24 (1) Licensed physicians and surgeons.
- 25 (2) Licensed doctors of podiatric medicine.
- 26 (3) Licensed psychologists.
- 27 (4) Registered nurses.
- 28 (5) Licensed optometrists.
- 29 (6) Licensed marriage and family therapists.
- 30 (7) Licensed clinical social workers.
- 31 (8) Licensed acupuncturists.
- 32 (9) Naturopathic doctors.
- 33 (10) Licensed professional clinical counselors.
- 34 (l) Acupuncture corporation.
- 35 (1) Licensed physicians and surgeons.
- 36 (2) Licensed doctors of podiatric medicine.
- 37 (3) Licensed psychologists.
- 38 (4) Registered nurses.
- 39 (5) Licensed optometrists.
- 40 (6) Licensed marriage and family therapists.

- 1 (7) Licensed clinical social workers.
- 2 (8) Licensed physician assistants.
- 3 (9) Licensed chiropractors.
- 4 (10) Naturopathic doctors.
- 5 (11) Licensed professional clinical counselors.
- 6 (m) Naturopathic doctor corporation.
- 7 (1) Licensed physicians and surgeons.
- 8 (2) Licensed psychologists.
- 9 (3) Registered nurses.
- 10 (4) Licensed physician assistants.
- 11 (5) Licensed chiropractors.
- 12 (6) Licensed acupuncturists.
- 13 (7) Licensed physical therapists.
- 14 (8) Licensed doctors of podiatric medicine.
- 15 (9) Licensed marriage and family therapists.
- 16 (10) Licensed clinical social workers.
- 17 (11) Licensed optometrists.
- 18 (12) Licensed professional clinical counselors.
- 19 (n) Dental corporation.
- 20 (1) Licensed physicians and surgeons.
- 21 (2) Dental assistants.
- 22 (3) Registered dental assistants.
- 23 (4) Registered dental assistants in extended functions.
- 24 (5) Registered dental hygienists.
- 25 (6) Registered dental hygienists in extended functions.
- 26 (7) Registered dental hygienists in alternative practice.
- 27 (o) Professional clinical counselor corporation.
- 28 (1) Licensed physicians and surgeons.
- 29 (2) Licensed psychologists.
- 30 (3) Licensed clinical social workers.
- 31 (4) Licensed marriage and family therapists.
- 32 (5) Registered nurses.
- 33 (6) Licensed chiropractors.
- 34 (7) Licensed acupuncturists.
- 35 (8) Naturopathic doctors.
- 36 (p) Physical therapy corporation.
- 37 (1) Licensed physicians and surgeons.
- 38 (2) Licensed doctors of podiatric medicine.
- 39 (3) Licensed acupuncturists.
- 40 (4) Naturopathic doctors.

- 1 (5) Licensed occupational therapists.
- 2 (6) Licensed speech-language therapists.
- 3 (7) Licensed audiologists.
- 4 (8) Registered nurses.
- 5 (9) Licensed psychologists.
- 6 (10) Licensed physician assistants.
- 7 (q) *Registered dental hygienist in alternative practice*
- 8 *corporation.*
- 9 (1) *Dental assistants.*
- 10 (2) *Licensed dentists.*

11 SEC. 6. Section 1374.196 is added to the Health and Safety
12 Code, to read:

13 1374.196. (a) This section shall only apply to a health care
14 service plan contract covering dental services or a specialized
15 health care service plan contract covering dental services issued,
16 amended, or renewed on or after January 1, 2016.

17 (b) A registered dental hygienist in alternative practice, licensed
18 pursuant to Section 1922 of the Business and Professions Code,
19 may submit or allow to be submitted on his or her behalf any claim
20 for dental hygiene services performed as authorized pursuant to
21 Article 9 (commencing with Section 1900) of Chapter 4 of Division
22 2 of the Business and Professions Code to a health care service
23 plan covering dental services or a specialized health care service
24 plan covering dental services.

25 (c) If a health care service plan contract covering dental services
26 or a specialized health care service plan contract covering dental
27 services provides reimbursement for dental hygiene services that
28 may lawfully be performed by a registered dental hygienist,
29 licensed pursuant to Section 1917 of the Business and Professions
30 Code, reimbursement under that plan contract shall not be denied
31 when the service is performed by a registered dental hygienist in
32 alternative practice.

33 (d) (1) Nothing in this section shall preclude a health care
34 service plan contract covering dental services or a specialized
35 health care service plan contract covering dental services from
36 setting different fee schedules for different services provided by
37 different providers.

38 (2) A health care service plan contract covering dental services
39 or a specialized health care service plan contract covering dental
40 services shall use the same fee schedule for dental hygiene services

1 whether the services are performed by a registered dental hygienist
2 or a registered dental hygienist in alternative practice.

3 SEC. 7. Section 10120.4 is added to the Insurance Code, to
4 read:

5 10120.4. (a) This section shall only apply to a health insurance
6 policy covering dental services or a specialized health insurance
7 policy covering dental services issued, amended, or renewed on
8 or after January 1, 2016.

9 (b) A registered dental hygienist in alternative practice, licensed
10 pursuant to Section 1922 of the Business and Professions Code,
11 may submit or allow to be submitted on his or her behalf any claim
12 for dental hygiene services performed as authorized pursuant to
13 Article 9 (commencing with Section 1900) of Chapter 4 of Division
14 2 of the Business and Professions Code to a health insurer covering
15 dental services or a specialized health insurer covering dental
16 services.

17 (c) If a health insurance policy covering dental services or a
18 specialized health insurance policy covering dental services
19 provides for reimbursement for dental hygiene services that may
20 lawfully be performed by a registered dental hygienist, licensed
21 pursuant to Section 1917 of the Business and Professions Code,
22 reimbursement under that policy shall not be denied when the
23 service is performed by a registered dental hygienist in alternative
24 practice.

25 (d) (1) Nothing in this section shall preclude a health insurance
26 policy covering dental services or a specialized health insurance
27 policy covering dental services from setting different fee schedules
28 for different services provided by different providers.

29 (2) A health insurance policy covering dental services or a
30 specialized health insurance policy covering dental services shall
31 use the same fee schedule for dental hygiene services whether the
32 services are performed by a registered dental hygienist or a
33 registered dental hygienist in alternative practice.

34 SEC. 8. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution because
36 the only costs that may be incurred by a local agency or school
37 district will be incurred because this act creates a new crime or
38 infraction, eliminates a crime or infraction, or changes the penalty
39 for a crime or infraction, within the meaning of Section 17556 of
40 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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