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AB-502 Dental hygiene. (2015-2016)

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Assembly Bill No. 502

CHAPTER 516

An act to amend Section 1925 of, and to add Article 9.1 (commencing with Section 1967) to Chapter 4 of Division 2 of, the Business and Professions Code, and to amend Sections 13401 and 13401.5 of the Corporations Code, relating to dental hygiene.

[Approved by Governor October 06, 2015. Filed with Secretary of State October 06, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 502, Chau. Dental hygiene.

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 practice pursuant to specified provisions of law as, among other things, an independent contractor or an employee of a specified clinic. 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 licensees to be shareholders, officers, directors, or professional employees of a designated professional corporation, subject to certain limitations relating to ownership of shares. However, existing law specifies that it does not limit employment by a designated professional corporation to only those healing arts licensees and authorizes any healing arts licensee to be employed to render professional services by a designated professional corporation.

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 registered dental assistants, licensed dentists, registered dental hygienists, and registered dental hygienists in extended functions to be shareholders, officers, directors, or professional employees of a registered dental hygienist in alternative practice corporation. The bill would, in the Dental Practice Act, authorize a registered dental hygienist in alternative practice to practice as an employee of a professional corporation, as specified. The bill would make it unprofessional conduct to violate, attempt to violate, assist in or abet the violation of, or conspire to violate, specified provisions regarding registered dental hygienists in alternative practice corporations, the Moscone-Knox Professional Corporation Act, or any regulations adopted under those laws. The bill would require a licensee employed by, or practicing in, a registered dental hygienist in alternative practice corporation to practice within the scope of their license and be subject to all applicable licensure provisions in their respective practice act. The bill would require the bylaws of a registered dental hygienist in alternative practice corporation to include a provision requiring the capital stock of a disqualified or deceased person to be sold to specified parties within a specified period of time. The bill would also require such a corporation to provide security for claims by patients.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1925 of the Business and Professions Code is amended to read:

1925. A registered dental hygienist in alternative practice may practice, pursuant to subdivision (a) of Section 1907, subdivision (a) of Section 1908, subdivisions (a) and (b) of Section 1910, Section 1910.5, and Section 1926.05 as an employee of a dentist or of another registered dental hygienist in alternative practice, as an independent contractor, as a sole proprietor of an alternative dental hygiene practice, as an employee of a primary care clinic or specialty clinic that is licensed pursuant to Section 1204 of the Health and Safety Code, as an employee of a primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code, as an employee of a clinic owned or operated by a public hospital or health system, as an employee of a clinic owned and operated by a hospital that maintains the primary contract with a county government to fill the county's role under Section 17000 of the Welfare and Institutions Code, or as an employee of a professional corporation under the Moscone-Knox Professional Corporation Act (commencing with Section 13400) of Part 4 of Division 3 of Title 1 of the Corporations Code.

SEC. 2. Article 9.1 (commencing with Section 1967) is added to Chapter 4 of Division 2 of the Business and Professions Code, to read:

Article 9.1. Registered Dental Hygienist in Alternative Practice Corporations

1967. A registered dental hygienist in alternative practice corporation is a professional corporation that is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that professional corporation and its shareholders, officers, directors, and professional employees rendering professional services are in compliance with the Moscone-Knox Professional Corporation Act (commencing with Section 13400) of Part 4 of Division 3 of Title 1 of the Corporations Code, this article, and all other statutes and regulations now or hereafter adopted pertaining to the professional corporation and the conduct of its affairs. With respect to a registered dental hygienist in alternative practice corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Dental Hygiene Committee of California.

1967.1. It shall constitute unprofessional conduct and a violation of this article for any person licensed under this article to violate, attempt to violate, directly or indirectly, assist in or abet the violation of, or conspire to violate any provision or term of this article, the Moscone-Knox Professional Corporation Act, or any regulations duly adopted under those laws.

1967.2. A licensee employed by, or practicing in, a registered dental hygienist in alternative practice corporation pursuant to Section 13401.5 of the Corporations Code shall practice within the scope of their license and shall be subject to all applicable licensure provisions in their respective practice act.

1967.3. The income of a registered dental hygienist in alternative practice corporation attributable to professional services rendered while a shareholder is a disqualified person, as defined in subdivision (e) of Section 13401 of the Corporations Code, shall not in any manner accrue to the benefit of such shareholder or his or her shares in the registered dental hygienist in alternative practice corporation.

1967.4. (a) The bylaws of a registered dental hygienist in alternative practice corporation shall include a provision whereby the capital stock of the professional corporation owned by a disqualified person, as defined in subdivision (e) of Section 13401 of the Corporations Code, or a deceased person, shall be sold to the professional corporation or to the remaining shareholders of the professional corporation not later than 90 days after disqualification, if the shareholder becomes a disqualified person, or not later than six months after death, if the shareholder becomes deceased.

(b) A registered dental hygienist in alternative practice corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

SEC. 3. Section 13401 of the Corporations Code is amended to read:

13401. As used in this part:

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

(b) "Professional corporation" means a corporation organized under the General Corporation Law or pursuant to subdivision (b) of Section 13406 that is engaged in rendering professional services in a single profession, except as otherwise authorized in Section 13401.5, pursuant to a certificate of registration issued by the governmental agency regulating the profession as herein provided and that in its practice or business designates itself as a professional or other corporation as may be required by statute. However, any professional corporation or foreign professional corporation rendering professional services by persons duly licensed by the Medical Board of California or any examining committee under the jurisdiction of the board, the Osteopathic Medical Board of California, the Dental Board of California, the Dental Hygiene Committee of California, the California State Board of Pharmacy, the Veterinary Medical Board, the California Architects Board, the Court Reporters Board of California, the Board of Behavioral Sciences, the Speech-Language Pathology and Audiology Board, the Board of Registered Nursing, or the State Board of Optometry shall not be required to obtain a certificate of registration in order to render those professional services.

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

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

(e) "Disqualified person" means a licensed person who for any reason becomes legally disqualified (temporarily or permanently) to render the professional services that the particular professional corporation or foreign professional corporation of which he or she is an officer, director, shareholder, or employee is or was rendering.

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

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

(a) Medical corporation.

- (1) Licensed doctors of podiatric medicine.
- (2) Licensed psychologists.
- (3) Registered nurses.
- (4) Licensed optometrists.
- (5) Licensed marriage and family therapists.
- (6) Licensed clinical social workers.
- (7) Licensed physician assistants.
- (8) Licensed chiropractors.
- (9) Licensed acupuncturists.
- (10) Naturopathic doctors.
- (11) Licensed professional clinical counselors.
- (12) Licensed physical therapists.

(b) Podiatric medical corporation.

- (1) Licensed physicians and surgeons.

(2) Licensed psychologists.

(3) Registered nurses.

(4) Licensed optometrists.

(5) Licensed chiropractors.

(6) Licensed acupuncturists.

(7) Naturopathic doctors.

(8) Licensed physical therapists.

(c) Psychological corporation.

(1) Licensed physicians and surgeons.

(2) Licensed doctors of podiatric medicine.

(3) Registered nurses.

(4) Licensed optometrists.

(5) Licensed marriage and family therapists.

(6) Licensed clinical social workers.

(7) Licensed chiropractors.

(8) Licensed acupuncturists.

(9) Naturopathic doctors.

(10) Licensed professional clinical counselors.

(d) Speech-language pathology corporation.

(1) Licensed audiologists.

(e) Audiology corporation.

(1) Licensed speech-language pathologists.

(f) Nursing corporation.

(1) Licensed physicians and surgeons.

(2) Licensed doctors of podiatric medicine.

(3) Licensed psychologists.

(4) Licensed optometrists.

(5) Licensed marriage and family therapists.

(6) Licensed clinical social workers.

(7) Licensed physician assistants.

(8) Licensed chiropractors.

(9) Licensed acupuncturists.

(10) Naturopathic doctors.

(11) Licensed professional clinical counselors.

(g) Marriage and family therapist corporation.

(1) Licensed physicians and surgeons.

(2) Licensed psychologists.

(3) Licensed clinical social workers.

(4) Registered nurses.

(5) Licensed chiropractors.

(6) Licensed acupuncturists.

(7) Naturopathic doctors.

(8) Licensed professional clinical counselors.

(h) Licensed clinical social worker corporation.

(1) Licensed physicians and surgeons.

(2) Licensed psychologists.

(3) Licensed marriage and family therapists.

(4) Registered nurses.

(5) Licensed chiropractors.

(6) Licensed acupuncturists.

(7) Naturopathic doctors.

(8) Licensed professional clinical counselors.

(i) Physician assistants corporation.

(1) Licensed physicians and surgeons.

(2) Registered nurses.

(3) Licensed acupuncturists.

(4) Naturopathic doctors.

(j) Optometric corporation.

(1) Licensed physicians and surgeons.

(2) Licensed doctors of podiatric medicine.

(3) Licensed psychologists.

(4) Registered nurses.

(5) Licensed chiropractors.

(6) Licensed acupuncturists.

(7) Naturopathic doctors.

(k) Chiropractic corporation.

(1) Licensed physicians and surgeons.

(2) Licensed doctors of podiatric medicine.

(3) Licensed psychologists.

(4) Registered nurses.

(5) Licensed optometrists.

(6) Licensed marriage and family therapists.

- (7) Licensed clinical social workers.
- (8) Licensed acupuncturists.
- (9) Naturopathic doctors.
- (10) Licensed professional clinical counselors.

(l) Acupuncture corporation.

- (1) Licensed physicians and surgeons.
- (2) Licensed doctors of podiatric medicine.
- (3) Licensed psychologists.
- (4) Registered nurses.
- (5) Licensed optometrists.
- (6) Licensed marriage and family therapists.
- (7) Licensed clinical social workers.
- (8) Licensed physician assistants.
- (9) Licensed chiropractors.
- (10) Naturopathic doctors.
- (11) Licensed professional clinical counselors.

(m) Naturopathic doctor corporation.

- (1) Licensed physicians and surgeons.
- (2) Licensed psychologists.
- (3) Registered nurses.
- (4) Licensed physician assistants.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.
- (7) Licensed physical therapists.
- (8) Licensed doctors of podiatric medicine.
- (9) Licensed marriage and family therapists.
- (10) Licensed clinical social workers.
- (11) Licensed optometrists.
- (12) Licensed professional clinical counselors.

(n) Dental corporation.

- (1) Licensed physicians and surgeons.
- (2) Dental assistants.
- (3) Registered dental assistants.
- (4) Registered dental assistants in extended functions.
- (5) Registered dental hygienists.
- (6) Registered dental hygienists in extended functions.

(7) Registered dental hygienists in alternative practice.

(o) Professional clinical counselor corporation.

(1) Licensed physicians and surgeons.

(2) Licensed psychologists.

(3) Licensed clinical social workers.

(4) Licensed marriage and family therapists.

(5) Registered nurses.

(6) Licensed chiropractors.

(7) Licensed acupuncturists.

(8) Naturopathic doctors.

(p) Physical therapy corporation.

(1) Licensed physicians and surgeons.

(2) Licensed doctors of podiatric medicine.

(3) Licensed acupuncturists.

(4) Naturopathic doctors.

(5) Licensed occupational therapists.

(6) Licensed speech-language therapists.

(7) Licensed audiologists.

(8) Registered nurses.

(9) Licensed psychologists.

(10) Licensed physician assistants.

(q) Registered dental hygienist in alternative practice corporation.

(1) Registered dental assistants.

(2) Licensed dentists.

(3) Registered dental hygienists.

(4) Registered dental hygienists in extended functions.