

AMENDED IN ASSEMBLY MAY 7, 2013
AMENDED IN ASSEMBLY APRIL 25, 2013
AMENDED IN ASSEMBLY MARCH 21, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1000

Introduced by Assembly Members Wieckowski and Maienschein

February 22, 2013

An act to amend Sections 2406 and 2660 of, and to add Sections 2406.5 and 2620.1 to, the Business and Professions Code, and to amend Section 13401.5 of the Corporations Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1000, as amended, Wieckowski. Physical therapists: direct access to services: professional corporations.

Existing law, the Physical Therapy Practice Act, creates the Physical Therapy Board of California and makes it responsible for the licensure and regulation of physical therapists. The act makes it a crime to violate any of its provisions. The act authorizes the board to suspend, revoke, or impose probationary conditions on a license, certificate, or approval issued under the act for unprofessional conduct, as specified.

This bill would specify that patients may access physical therapy treatment directly and would, in those circumstances, require a physical therapist to refer his or her patient to another specified healing arts practitioner if the physical therapist has reason to believe the patient has a condition requiring treatment or services beyond that scope of practice or if the patient is not progressing, to disclose to the patient any financial interest he or she has in treating the patient, and, with the patient's written authorization, to notify the patient's physician and

surgeon, if any, that the physical therapist is treating the patient. The bill would prohibit a physical therapist from treating a patient who initiated services directly for the lesser of more than 45 calendar days or 12 visits, except as specified, and would prohibit a physical therapist from performing services on that patient before obtaining the patient's signature on a specified notice regarding these limitations on treatment. The bill would provide that failure to comply with these provisions constitutes unprofessional conduct subject to disciplinary action by the board.

Because the bill would specify additional requirements under the Physical Therapy Practice Act, the violation of which would be a crime, it would impose a state-mandated local program.

The Moscone-Knox Professional Corporation Act provides for the organization of a corporation under certain existing law for the purposes of qualifying as a professional corporation under that act and rendering professional services. The act 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. Existing law also defines a medical corporation or podiatry corporation that is authorized to render professional services as long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are physicians, psychologists, registered nurses, optometrists, podiatrists or, in the case of a medical corporation only, physician assistants, are in compliance with the act.

This bill would specify that those provisions do not limit employment by a professional corporation of only those specified licensed professionals. The bill would authorize any person duly licensed under the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act to be employed to render professional services by a professional corporation. The bill would *expressly* add physical therapists *and occupational therapists* to the list of healing arts professionals who may be professional employees of a medical corporation or podiatry corporation. The bill would also provide that specified healing arts licensees may be shareholders, officers, directors, or professional employees of a physical therapy corporation. The bill would also require a practitioner who refers a patient to a physical therapist who is employed by a ~~medical corporation or podiatry~~ *professional* corporation to make a specified disclosure to the patient.

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. The Legislature finds and declares that an
2 individual's access to early intervention to physical therapy
3 treatment may decrease the duration of a disability, reduce pain,
4 and lead to a quicker recovery.

5 SEC. 2. Section 2406 of the Business and Professions Code is
6 amended to read:

7 2406. A medical corporation or podiatry corporation is a
8 corporation that is authorized to render professional services, as
9 defined in ~~Sections~~ Section 13401 and 13401.5 of the Corporations
10 Code, so long as that corporation and its shareholders, officers,
11 directors, and employees rendering professional services who are
12 physicians and surgeons, psychologists, registered nurses,
13 optometrists, podiatrists, chiropractors, acupuncturists, naturopathic
14 doctors, physical therapists, occupational therapists, or, in the case
15 of a medical corporation only, physician assistants, marriage and
16 family therapists, clinical counselors, or clinical social workers,
17 are in compliance with the Moscone-Knox Professional
18 Corporation Act, the provisions of this article, and all other statutes
19 and regulations now or hereafter enacted or adopted pertaining to
20 the corporation and the conduct of its affairs.

21 With respect to a medical corporation or podiatry corporation,
22 the governmental agency referred to in the Moscone-Knox
23 Professional Corporation Act is the board.

24 SEC. 3. Section 2406.5 is added to the Business and Professions
25 Code, to read:

26 2406.5. When a physician and surgeon, podiatrist, or other
27 referring practitioner refers a patient to receive services by a
28 physical therapist employed by a professional corporation as
29 defined in ~~Sections~~ Section 13401 and 13401.5 of the Corporations
30 Code, the referring practitioner shall comply with Article 6

1 (commencing with Section 650) of Chapter 1, and shall provide
2 notice of the following to the patient, orally and in writing, in at
3 least 14-point type and signed by the patient:

4 (a) That the patient may seek physical therapy treatment services
5 from a physical therapy provider of his or her choice who may not
6 necessarily be employed by the medical or podiatry corporation.

7 (b) If the patient chooses to be treated by an employed physical
8 therapist, any financial interest the referring practitioner has in the
9 corporation.

10 SEC. 4. Section 2620.1 is added to the Business and Professions
11 Code, to read:

12 2620.1. (a) In addition to receiving those services authorized
13 by Section 2620, a person may initiate physical therapy treatment
14 directly from a licensed physical therapist if the treatment is within
15 the scope of practice of physical therapists, as defined in Section
16 2620, and all of the following conditions are met:

17 (1) If, at any time, the physical therapist has reason to believe
18 that the patient has signs or symptoms of a condition that requires
19 treatment beyond the scope of practice of a physical therapist or
20 the patient is not progressing toward documented treatment goals
21 as demonstrated by objective, measurable, or functional
22 improvement, the physical therapist shall refer the patient to a
23 person holding a physician and surgeon’s certificate issued by the
24 Medical Board of California or by the Osteopathic Medical Board
25 of California or to a person licensed to practice dentistry, podiatric
26 medicine, or chiropractic.

27 (2) The physical therapist shall comply with Section 2633, and
28 shall disclose to the patient any financial interest he or she has in
29 treating the patient and, if working in a physical therapy
30 corporation, shall comply with Article 6 (commencing with Section
31 650) of Chapter 1.

32 (3) With the patient’s written authorization, the physical
33 therapist shall notify the patient’s physician and surgeon, if any,
34 that the physical therapist is treating the patient.

35 (4) The physical therapist shall not continue treating the patient
36 beyond 45 calendar days or 12 visits, whichever occurs first,
37 without receiving, from a person holding a physician and surgeon’s
38 certificate from the Medical Board of California or the Osteopathic
39 Medical Board of California or from a person holding a certificate
40 to practice podiatric medicine from the California Board of

1 Podiatric Medicine and acting within his or her scope of practice,
2 a dated signature on the physical therapist’s plan of care indicating
3 approval of the physical therapist’s plan of care. Approval of the
4 physical therapist’s plan of care shall include an in-person patient
5 examination and evaluation of the patient’s condition and, if
6 indicated, testing by the physician and surgeon or podiatrist.

7 (b) The conditions in paragraph (4) of subdivision (a) do not
8 apply to a physical therapist when he or she is only *providing*
9 wellness physical therapy services to a patient as described in
10 subdivision (a) of Section 2620.

11 (c) This section does not expand or modify the scope of practice
12 for physical therapists set forth in Section 2620, including the
13 prohibition on a physical therapist diagnosing a disease.

14 (d) This section does not require a health care service plan or
15 insurer to provide coverage for services rendered to a patient who
16 directly accessed the services of a physical therapist.

17 (e) When a person initiates physical therapy treatment services
18 directly, pursuant to this section, the physical therapist shall not
19 perform physical therapy treatment services without first providing
20 the following notice to the patient, orally and in writing, in at least
21 14-point type and signed by the patient:

22

23 Direct Physical Therapy Treatment Services

24

25 You are receiving direct physical therapy treatment services
26 from an individual who is a physical therapist licensed by the
27 Physical Therapy Board of California.

28 Under California law, you may continue to receive direct
29 physical therapy treatment services for a period of up to 45 calendar
30 days or 12 visits, whichever occurs first, after which time a physical
31 therapist may continue providing you with physical therapy
32 treatment services only after receiving, from a person holding a
33 physician and surgeon’s certificate issued by the Medical Board
34 of California or by the Osteopathic Medical Board of California,
35 or from a person holding a certificate to practice podiatric medicine
36 from the California Board of Podiatric Medicine and acting within
37 his or her scope of practice, a dated signature on the physical
38 therapist’s plan of care indicating approval of the physical
39 therapist’s plan of care and that an in-person patient examination

1 from licensee to patient, from patient to patient, and from patient
2 to licensee. In administering this subdivision, the board shall
3 consider referencing the standards, regulations, and guidelines of
4 the State Department of Public Health developed pursuant to
5 Section 1250.11 of the Health and Safety Code and the standards,
6 regulations, and guidelines pursuant to the California Occupational
7 Safety and Health Act of 1973 (Part 1 (commencing with Section
8 6300) of Division 5 of the Labor Code) for preventing the
9 transmission of HIV, hepatitis B, and other bloodborne pathogens
10 in health care settings. As necessary, the board shall consult with
11 the Medical Board of California, the California Board of Podiatric
12 Medicine, the Dental Board of California, the Board of Registered
13 Nursing, and the Board of Vocational Nursing and Psychiatric
14 Technicians of the State of California, to encourage appropriate
15 consistency in the implementation of this subdivision.

16 The board shall seek to ensure that licensees are informed of the
17 responsibility of licensees and others to follow infection control
18 guidelines, and of the most recent scientifically recognized
19 safeguards for minimizing the risk of transmission of bloodborne
20 infectious diseases.

21 (m) The commission of verbal abuse or sexual harassment.

22 (n) Failure to comply with the provisions of Section 2620.1.

23 SEC. 6. Section 13401.5 of the Corporations Code is amended
24 to read:

25 13401.5. Notwithstanding subdivision (d) of Section 13401
26 and any other provision of law, the following licensed persons
27 may be shareholders, officers, directors, or professional employees
28 of the professional corporations designated in this section so long
29 as the sum of all shares owned by those licensed persons does not
30 exceed 49 percent of the total number of shares of the professional
31 corporation so designated herein, and so long as the number of
32 those licensed persons owning shares in the professional
33 corporation so designated herein does not exceed the number of
34 persons licensed by the governmental agency regulating the
35 designated professional corporation. This section does not limit
36 employment by a professional corporation designated in this section
37 of only those licensed professionals listed under each subdivision.
38 Any person duly licensed under the Business and Professions Code,
39 the Chiropractic Act, or the Osteopathic Act may be employed to

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

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

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

- 1 (4) Registered dental assistants in extended functions.
- 2 (5) Registered dental hygienists.
- 3 (6) Registered dental hygienists in extended functions.
- 4 (7) Registered dental hygienists in alternative practice.
- 5 (o) Professional clinical counselor corporation.
- 6 (1) Licensed physicians and surgeons.
- 7 (2) Licensed psychologists.
- 8 (3) Licensed clinical social workers.
- 9 (4) Licensed marriage and family therapists.
- 10 (5) Registered nurses.
- 11 (6) Licensed chiropractors.
- 12 (7) Licensed acupuncturists.
- 13 (8) Naturopathic doctors.
- 14 (p) Physical therapy corporation.
- 15 (1) Licensed physicians and surgeons.
- 16 (2) Licensed doctors of podiatric medicine.
- 17 (3) Licensed acupuncturists.
- 18 (4) Naturopathic doctors.
- 19 (5) Licensed occupational therapists.
- 20 (6) Licensed speech-language therapists.
- 21 (7) Licensed audiologists.
- 22 (8) Registered nurses.
- 23 (9) Licensed psychologists.
- 24 (10) Licensed physician assistants.
- 25 SEC. 7. No reimbursement is required by this act pursuant to
- 26 Section 6 of Article XIII B of the California Constitution because
- 27 the only costs that may be incurred by a local agency or school
- 28 district will be incurred because this act creates a new crime or
- 29 infraction, eliminates a crime or infraction, or changes the penalty
- 30 for a crime or infraction, within the meaning of Section 17556 of
- 31 the Government Code, or changes the definition of a crime within
- 32 the meaning of Section 6 of Article XIII B of the California
- 33 Constitution.

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