

AMENDED IN SENATE SEPTEMBER 3, 2013

AMENDED IN SENATE JULY 11, 2013

AMENDED IN SENATE JUNE 24, 2013

AMENDED IN ASSEMBLY MAY 8, 2013

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, and would add licensed physical therapists to the list of healing arts practitioners who may be shareholders, officers, or directors of a medical corporation or a podiatric medical 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, except as specified, who refers a patient to a physical therapist who is employed by a 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 Section 13401 of the Corporations Code, so long as that
10 corporation and its shareholders, officers, directors, and employees
11 rendering professional services who are physicians and surgeons,
12 psychologists, registered nurses, optometrists, podiatrists,
13 chiropractors, acupuncturists, naturopathic doctors, physical
14 therapists, occupational therapists, or, in the case of a medical
15 corporation only, physician assistants, marriage and family
16 therapists, clinical counselors, or clinical social workers, are in
17 compliance with the Moscone-Knox Professional Corporation Act,
18 the provisions of this article, and all other statutes and regulations
19 now or hereafter enacted or adopted pertaining to the corporation
20 and the conduct of its affairs.

1 With respect to a medical corporation or podiatry corporation,
2 the governmental agency referred to in the Moscone-Knox
3 Professional Corporation Act is the board.

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

6 2406.5. (a) When a physician and surgeon, podiatrist, or other
7 referring practitioner refers a patient to receive services by a
8 physical therapist employed by a professional corporation as
9 defined in Section 13401 of the Corporations Code, the referring
10 practitioner shall comply with Article 6 (commencing with Section
11 650) of Chapter 1, and shall provide notice of the following to the
12 patient, orally and in writing, in at least 14-point type and signed
13 by the patient:

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

17 (2) If the patient chooses to be treated by an employed physical
18 therapist, any financial interest the referring practitioner has in the
19 corporation.

20 (b) This section shall not apply to a physician and surgeon,
21 podiatrist, or other referring practitioner who is in a medical group
22 with which a health care service plan, that is licensed pursuant to
23 the Knox-Keene Health Care Service Plan Act of 1975 (Chapter
24 2.2 (commencing with Section 1340) of Division 2 of the Health
25 and Safety Code) and is also exempt from federal taxation pursuant
26 to Section 501(c)(3) of the Internal Revenue Code, exclusively
27 contracts to provide professional medical services for its enrollees.

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

30 2620.1. (a) In addition to receiving those services authorized
31 by Section 2620, a person may initiate physical therapy treatment
32 directly from a licensed physical therapist if the treatment is within
33 the scope of practice of physical therapists, as defined in Section
34 2620, and all of the following conditions are met:

35 (1) If, at any time, the physical therapist has reason to believe
36 that the patient has signs or symptoms of a condition that requires
37 treatment beyond the scope of practice of a physical therapist or
38 the patient is not progressing toward documented treatment goals
39 as demonstrated by objective, measurable, or functional
40 improvement, the physical therapist shall refer the patient to a

1 person holding a physician and surgeon's certificate issued by the
2 Medical Board of California or by the Osteopathic Medical Board
3 of California or to a person licensed to practice dentistry, podiatric
4 medicine, or chiropractic.

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

10 (3) With the patient's written authorization, the physical
11 therapist shall notify the patient's physician and surgeon, if any,
12 that the physical therapist is treating the patient.

13 (4) The physical therapist shall not continue treating the patient
14 beyond 45 calendar days or 12 visits, whichever occurs first,
15 without receiving, from a person holding a physician and surgeon's
16 certificate from the Medical Board of California or the Osteopathic
17 Medical Board of California or from a person holding a certificate
18 to practice podiatric medicine from the California Board of
19 Podiatric Medicine and acting within his or her scope of practice,
20 a dated signature on the physical therapist's plan of care indicating
21 approval of the physical therapist's plan of care. Approval of the
22 physical therapist's plan of care shall include an in-person patient
23 examination and evaluation of the patient's condition and, if
24 indicated, testing by the physician and surgeon or podiatrist.

25 (b) The conditions in paragraph (4) of subdivision (a) do not
26 apply to a physical therapist when he or she is only providing
27 wellness physical therapy services to a patient as described in
28 subdivision (a) of Section 2620.

29 (c) (1) This section does not expand or modify the scope of
30 practice for physical therapists set forth in Section 2620, including
31 the prohibition on a physical therapist diagnosing a disease.

32 (2) This section does not restrict or alter the scope of practice
33 of any other health care professional.

34 (d) ~~This~~ *Nothing in this section does not require shall be*
35 *construed to require a health care service plan or insurer plan,*
36 *insurer, workers' compensation insurance plan, employer, or state*
37 *program to provide coverage for services rendered to a patient*
38 *who directly accessed the services of direct access to treatment*
39 *by a physical therapist.*

1 (e) When a person initiates physical therapy treatment services
 2 directly, pursuant to this section, the physical therapist shall not
 3 perform physical therapy treatment services without first providing
 4 the following notice to the patient, orally and in writing, in at least
 5 14-point type and signed by the patient:

6
 7 “Direct Physical Therapy Treatment Services

8
 9 You are receiving direct physical therapy treatment services
 10 from an individual who is a physical therapist licensed by the
 11 Physical Therapy Board of California.

12 Under California law, you may continue to receive direct
 13 physical therapy treatment services for a period of up to 45 calendar
 14 days or 12 visits, whichever occurs first, after which time a physical
 15 therapist may continue providing you with physical therapy
 16 treatment services only after receiving, from a person holding a
 17 physician and surgeon’s certificate issued by the Medical Board
 18 of California or by the Osteopathic Medical Board of California,
 19 or from a person holding a certificate to practice podiatric medicine
 20 from the California Board of Podiatric Medicine and acting within
 21 his or her scope of practice, a dated signature on the physical
 22 therapist’s plan of care indicating approval of the physical
 23 therapist’s plan of care and that an in-person patient examination
 24 and evaluation was conducted by the physician and surgeon or
 25 podiatrist.

26
 27
 28 Patient’s Signature/Date”

29 SEC. 5. Section 2660 of the Business and Professions Code is
 30 amended to read:

31 2660. The board may, after the conduct of appropriate
 32 proceedings under the Administrative Procedure Act, suspend for
 33 not more than 12 months, or revoke, or impose probationary
 34 conditions upon any license, certificate, or approval issued under
 35 this chapter for unprofessional conduct that includes, but is not
 36 limited to, one or any combination of the following causes:

- 37 (a) Advertising in violation of Section 17500.
- 38 (b) Fraud in the procurement of any license under this chapter.
- 39 (c) Procuring or aiding or offering to procure or aid in criminal
 abortion.

- 1 (d) Conviction of a crime that substantially relates to the
2 qualifications, functions, or duties of a physical therapist or
3 physical therapist assistant. The record of conviction or a certified
4 copy thereof shall be conclusive evidence of that conviction.
- 5 (e) Habitual intemperance.
- 6 (f) Addiction to the excessive use of any habit-forming drug.
- 7 (g) Gross negligence in his or her practice as a physical therapist
8 or physical therapist assistant.
- 9 (h) Conviction of a violation of any of the provisions of this
10 chapter or of the Medical Practice Act, or violating, or attempting
11 to violate, directly or indirectly, or assisting in or abetting the
12 violating of, or conspiring to violate any provision or term of this
13 chapter or of the Medical Practice Act.
- 14 (i) The aiding or abetting of any person to violate this chapter
15 or any regulations duly adopted under this chapter.
- 16 (j) The aiding or abetting of any person to engage in the unlawful
17 practice of physical therapy.
- 18 (k) The commission of any fraudulent, dishonest, or corrupt act
19 that is substantially related to the qualifications, functions, or duties
20 of a physical therapist or physical therapist assistant.
- 21 (l) Except for good cause, the knowing failure to protect patients
22 by failing to follow infection control guidelines of the board,
23 thereby risking transmission of bloodborne infectious diseases
24 from licensee to patient, from patient to patient, and from patient
25 to licensee. In administering this subdivision, the board shall
26 consider referencing the standards, regulations, and guidelines of
27 the State Department of Public Health developed pursuant to
28 Section 1250.11 of the Health and Safety Code and the standards,
29 regulations, and guidelines pursuant to the California Occupational
30 Safety and Health Act of 1973 (Part 1 (commencing with Section
31 6300) of Division 5 of the Labor Code) for preventing the
32 transmission of HIV, hepatitis B, and other bloodborne pathogens
33 in health care settings. As necessary, the board shall consult with
34 the Medical Board of California, the California Board of Podiatric
35 Medicine, the Dental Board of California, the Board of Registered
36 Nursing, and the Board of Vocational Nursing and Psychiatric
37 Technicians of the State of California, to encourage appropriate
38 consistency in the implementation of this subdivision.
- 39 The board shall seek to ensure that licensees are informed of the
40 responsibility of licensees and others to follow infection control

1 guidelines, and of the most recent scientifically recognized
2 safeguards for minimizing the risk of transmission of bloodborne
3 infectious diseases.

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

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

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

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

26 (a) Medical corporation.

27 (1) Licensed doctors of podiatric medicine.

28 (2) Licensed psychologists.

29 (3) Registered nurses.

30 (4) Licensed optometrists.

31 (5) Licensed marriage and family therapists.

32 (6) Licensed clinical social workers.

33 (7) Licensed physician assistants.

34 (8) Licensed chiropractors.

35 (9) Licensed acupuncturists.

36 (10) Naturopathic doctors.

37 (11) Licensed professional clinical counselors.

38 (12) Licensed physical therapists.

39 (b) Podiatric medical corporation.

40 (1) Licensed physicians and surgeons.

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

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

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

- 1 (2) Licensed doctors of podiatric medicine.
- 2 (3) Licensed acupuncturists.
- 3 (4) Naturopathic doctors.
- 4 (5) Licensed occupational therapists.
- 5 (6) Licensed speech-language therapists.
- 6 (7) Licensed audiologists.
- 7 (8) Registered nurses.
- 8 (9) Licensed psychologists.
- 9 (10) Licensed physician assistants.

10 SEC. 7. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.