

AMENDED IN SENATE JULY 16, 2015

AMENDED IN SENATE JUNE 29, 2015

AMENDED IN ASSEMBLY JUNE 2, 2015

AMENDED IN ASSEMBLY APRIL 30, 2015

AMENDED IN ASSEMBLY APRIL 22, 2015

AMENDED IN ASSEMBLY APRIL 16, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 502**

**Introduced by Assembly Member Chau**

February 23, 2015

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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.

LEGISLATIVE COUNSEL'S DIGEST

AB 502, as amended, 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 ~~dental assistants and~~ *assistants*, ~~licensed dentists~~ *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 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.

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

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

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

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

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

23  
24 Article 9.1. Registered Dental Hygienist in Alternative Practice  
25 Corporations  
26

27 1967. A registered dental hygienist in alternative practice  
28 corporation is a professional corporation that is authorized to render  
29 professional services, as defined in Section 13401 of the  
30 Corporations Code, so long as that professional corporation and  
31 its shareholders, officers, directors, and professional employees  
32 rendering professional services are in compliance with the  
33 Moscone-Knox Professional Corporation Act (commencing with  
34 Section 13400) of Part 4 of Division 3 of Title 1 of the  
35 Corporations Code, this article, and all other statutes and  
36 regulations now or hereafter adopted pertaining to the professional  
37 corporation and the conduct of its affairs. With respect to a  
38 registered dental hygienist in alternative practice corporation, the  
39 governmental agency referred to in the Moscone-Knox Professional  
40 Corporation Act is the Dental Hygiene Committee of California.

1 1967.1. It shall constitute unprofessional conduct and a  
2 violation of this article for any person licensed under this article  
3 to violate, attempt to violate, directly or indirectly, assist in or abet  
4 the violation of, or conspire to violate any provision or term of  
5 this article, the Moscone-Knox Professional Corporation Act, or  
6 any regulations duly adopted under those laws.

7 1967.2. A registered dental hygienist in alternative practice  
8 corporation shall not do or fail to do any act the doing of which  
9 or the failure to do would constitute unprofessional conduct under  
10 any statute or regulation, now or hereafter adopted. In the conduct  
11 of its practice, it shall observe and be bound by such statutes and  
12 regulations to the same extent as a person holding a license under  
13 Article 9 (commencing with Section 1900).

14 1967.3. The income of a registered dental hygienist in  
15 alternative practice corporation attributable to professional services  
16 rendered while a shareholder is a disqualified person, as defined  
17 in subdivision (e) of Section 13401 of the Corporations Code, shall  
18 not in any manner accrue to the benefit of such shareholder or his  
19 or her shares in the registered dental hygienist in alternative  
20 practice corporation.

21 1967.4. (a) The bylaws of a registered dental hygienist in  
22 alternative practice corporation shall include a provision whereby  
23 the capital stock of the professional corporation owned by a  
24 disqualified person, as defined in subdivision (e) of Section 13401  
25 of the Corporations Code, or a deceased person, shall be sold to  
26 the professional corporation or to the remaining shareholders of  
27 the professional corporation not later than 90 days after  
28 disqualification, if the shareholder becomes a disqualified person,  
29 or not later than six months after death, if the shareholder becomes  
30 deceased.

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

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

37 13401. As used in this part:

38 (a) "Professional services" means any type of professional  
39 services that may be lawfully rendered only pursuant to a license,

1 certification, or registration authorized by the Business and  
2 Professions Code, the Chiropractic Act, or the Osteopathic Act.

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

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

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

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

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

3 13401.5. Notwithstanding subdivision (d) of Section 13401  
4 and any other provision of law, the following licensed persons  
5 may be shareholders, officers, directors, or professional employees  
6 of the professional corporations designated in this section so long  
7 as the sum of all shares owned by those licensed persons does not  
8 exceed 49 percent of the total number of shares of the professional  
9 corporation so designated herein, and so long as the number of  
10 those licensed persons owning shares in the professional  
11 corporation so designated herein does not exceed the number of  
12 persons licensed by the governmental agency regulating the  
13 designated professional corporation. This section does not limit  
14 employment by a professional corporation designated in this section  
15 to only those licensed professionals listed under each subdivision.  
16 Any person duly licensed under Division 2 (commencing with  
17 Section 500) of the Business and Professions Code, the  
18 Chiropractic Act, or the Osteopathic Act may be employed to  
19 render professional services by a professional corporation  
20 designated in this section.

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

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

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

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

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