



NOTICE OF PUBLIC MEETING - TELECONFERENCE

March 2, 2015

12:00 p.m. - Adjournment

Department of Consumer Affairs
2005 Evergreen Street, Silverwood Lake Room
Sacramento, CA 95815
916-263-1978

DENTAL HYGIENE COMMITTEE OF CALIFORNIA TELECONFERENCE AGENDA

1. Call to Order-- Roll Call and Establishment of a Quorum.
2. Public Comment for Items Not on the Meeting Agenda.

The Board may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125, 11125.7(a))

3. Discussion and Possible Action on the California Dental Hygienists' Association's legislative proposal relating to Registered Dental Hygienists in Alternative Practice – *Business and Professions Code §§ 1924, 1926, and 1931, Corporations Code §§13401 and 13401.5, and adding Health and Safety Code §1374.196, and Insurance Code § 10120.4*
4. Discussion and Possible Action related to the Dental Hygiene Committee of California's potential sponsored legislation - *Business and Professions Code §§1925, 1950.5, 1960, 1962 and review of how other Boards have approached the issue*
5. Adjournment

TELECONFERENCE LOCATIONS:

Nicolette Moultrie, President, RDH Evangeline Ward, RDH Diablo Valley College Dental Clinic Reception Area 321 Golf Club Road Pleasant Hill, CA 94523	Noel Kelsch, Vice President, RDHAP Moorpark City Library 699 Moorpark Avenue Moorpark, CA 93021
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<p>Susan Good, Secretary, Public Member Catalano-Fenske & Associates Conference Room 1999 Tuolumne, Suite 801 Fresno, CA 93721</p>	<p>Michelle Hurlbutt, RDH Educator Timothy Martinez, DMD Royal Sonesta Boston Hotel, Lobby 40 Edwin Land Boulevard Cambridge, MA 02142</p>
<p>Sherrie-Ann Gordon, Public Member Center of Hope, First Church of God Room 102 – The Living Room 9550 Crenshaw Blvd, Inglewood, CA 90305</p>	

One or more Dental Hygiene Committee of California (DHCC) Member(s) will participate in this meeting at the teleconference sites listed above. Each teleconference location is accessible to the public and the public will be given opportunity to address the DHCC at each teleconference location. The public teleconference sites are noticed on the agenda. Public comments will be taken on the agenda items at the time the specified item is raised. The DHCC may take action on any item listed on the agenda, unless listed as informational only. All times are approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. The meeting may be cancelled without notice. For verification of the meeting, contact Anthony Lum at 916-576-5004, or access the DHCC Web Site at: www.dhcc.ca.gov

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board prior to the Board taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Board, but the Board President may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Board to discuss items not on the agenda; however, the Board can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).

The meeting facilities are accessible to individuals with physical disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Anthony Lum at 916-576-5004, or email Anthony.lum@dca.ca.gov or send a written request to the DHCC at 2005 Evergreen Street, Suite 2050, Sacramento, CA 95815. Providing your request at least five business days prior to the meeting will help to ensure availability of the requested accommodation.



Monday, March 2, 2015

Dental Hygiene Committee of California

Teleconference

Agenda Item 1

Call to Order – Roll Call and Establishment of Quorum



Monday, March 2, 2015

Dental Hygiene Committee of California

Teleconference

Agenda Item 2

Public Comment for Items Not on the Meeting Agenda



Monday, March 2, 2015

Dental Hygiene Committee of California

Teleconference

Agenda Item 3

Discussion and Possible Action on the California Dental Hygienists' Association's legislative proposal relating to Registered Dental Hygienists in Alternative Practice



MEMORANDUM

DATE	March 2, 2015
TO	DHCC Committee Members
FROM	Donna Kantner, DHCC Staff
SUBJECT	Agenda Item 3 - Discussion and Possible Action on the California Dental Hygienists' Association's legislative proposal relating to Registered Dental Hygienists in Alternative Practice – <i>Business and Professions Code §§ 1924, 1926, and 1931, Corporations Code §§13401 and 13401.5, and adding Health and Safety Code §1374.196 and Insurance Code §10120.4</i>

Background

At its December 5, 2014 meeting, the Committee discussed proposed statutory language developed by the California Dental Hygienists Association (CDHA), including statutory changes necessary for a Registered Dental Hygienist in Alternative Practice (RDHAP) to operate a professional corporation pursuant to Business and Professions Code Section 1962. The Committee voted to support the proposed language in concept and directed staff to monitor. At the time, the language was not finalized.

The proposed language has become AB 502 (Chau). A copy of the bill is attached for your review.

Committee Action Requested

- The Committee may take one of the following positions regarding AB 502 (Chau):
 - Support
 - Support if Amended
 - Neutral
 - Oppose
 - Oppose Unless Amended
 - Watch
 - No Position

- Staff recommends the Committee take a position on the legislation and direct the Executive Officer to monitor the legislation and submit a position letter to the author's office, if needed.

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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Monday, March 2, 2015

Dental Hygiene Committee of California

Teleconference

Agenda Item 4

Discussion and Possible Action related to the Dental Hygiene Committee of California's potential sponsored legislation



MEMORANDUM

DATE	March 2, 2015
TO	DHCC Committee Members
FROM	Donna Kantner, DHCC Staff
SUBJECT	Agenda Item 4 - Discussion and Possible Action related to the Dental Hygiene Committee of California’s potential sponsored legislation – <i>Business and Professions Code §§ 1925, 1950.5, 1960, 1962 and review of how other Boards have approached the issue</i>

Background

At its December 5, 2014 meeting, the Committee discussed proposed statutory language developed by the California Dental Hygienists Association (CDHA), including statutory changes necessary for a Registered Dental Hygienist in Alternative Practice (RDHAP) to operate a professional corporation, pursuant to Business and Professions Code Section 1962. The Committee voted to support the proposed language in concept and directed staff to monitor. This concept language has become AB 502 (Chau).

The Dental Board of California (DBC) has provisions in statute regarding dental corporations in Article 8, Business and Professions Code §§ 1800, 1804-1808. These provisions define a dental corporation, specify allowable corporate names and requirements for licensure, prohibit a disqualified shareholder from accruing any benefit, allow the DBC to discipline a dental corporation, and provide for rulemaking regarding dental corporations.

Staff recommends the Committee discuss and possibly vote on if similar provisions should be added to AB 502 (Chau) for dental hygiene professional corporations. In its current form, AB 502 (Chau) would need to specify licensure requirements, appropriate nomenclature, and to include disciplinary proceedings for corporations so that the Committee has the ability to discipline a dental hygiene professional corporation.

Staff recommends the Committee also discuss and possibly vote on adding “*employee of a professional corporation under the Moscone-Knox Professional Corporation Act (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code*” to Section 1925 relative to practices authorized for RDHAPs, and the word “*professional*” before corporation in Sections 1950.5(e), 1960(g), and 1962(a) and (e).

Enclosed in your meeting materials, you will also find a copy of two examples of statutes relating to corporations.

Committee Action Requested

- 1) Discuss research on statutory amendments conducted by staff and take action to accept or reject each of the proposed amendments.

- 2) If any amendments are accepted, direct staff to work with author's office to amend legislation.

Suggested Amendment Language – Business and Professions Code

Please find below sections researched by staff relating to corporations and suggested amended language:

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, **or** 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 Division 3 of Title 1 of the Corporations Code.**

1950.5.

Unprofessional conduct by a person licensed under this article is defined as, but is not limited to, any one of the following:

- (a) The obtaining of any fee by fraud or misrepresentation.
- (b) The aiding or abetting of any unlicensed person to practice dentistry or dental hygiene.
- (c) The aiding or abetting of a licensed person to practice dentistry or dental hygiene unlawfully.
- (d) The committing of any act or acts of sexual abuse, misconduct, or relations with a patient that are substantially related to the practice of dental hygiene.
- (e) The use of any false, assumed, or fictitious name, either as an individual, firm, **professional** corporation, or otherwise, or any name other than the name under which he or she is licensed to practice, in advertising or in any other manner indicating that he or she is practicing or will practice dentistry, except that name as is specified in a valid permit issued pursuant to Section 1962.
- (f) The practice of accepting or receiving any commission or the rebating in any form or manner of fees for professional services, radiographs, prescriptions, or other services or articles supplied to patients.
- (g) The making use by the licensee or any agent of the licensee of any advertising statements of a character tending to deceive or mislead the public.
- (h) The advertising of either professional superiority or the advertising of performance of professional services in a superior manner. This subdivision shall not prohibit advertising permitted by subdivision (h) of Section 651.
- (i) The employing or the making use of solicitors.

- (j) Advertising in violation of Section 651.
- (k) Advertising to guarantee any dental hygiene service, or to perform any dental hygiene procedure painlessly. This subdivision shall not prohibit advertising permitted by Section 651.
- (l) The violation of any of the provisions of this division.
- (m) The permitting of any person to operate dental radiographic equipment who has not met the requirements to do so, as determined by the committee.
- (n) The clearly excessive administering of drugs or treatment, or the clearly excessive use of treatment procedures, or the clearly excessive use of treatment facilities, as determined by the customary practice and standards of the dental hygiene profession. Any person who violates this subdivision is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) or more than six hundred dollars (\$600), or by imprisonment for a term of not less than 60 days or more than 180 days, or by both a fine and imprisonment.
- (o) The use of threats or harassment against any patient or licensee for providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of this chapter or to aid in the compliance.
- (p) Suspension or revocation of a license issued, or discipline imposed, by another state or territory on grounds that would be the basis of discipline in this state.
- (q) The alteration of a patient's record with intent to deceive.
- (r) Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental hygiene profession.
- (s) The abandonment of the patient by the licensee, without written notice to the patient that treatment is to be discontinued and before the patient has ample opportunity to secure the services of another registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions and provided the health of the patient is not jeopardized.
- (t) The willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licensee.
- (u) Use of fraud in the procurement of any license issued pursuant to this article.
- (v) Any action or conduct that would have warranted the denial of the license.
- (w) The aiding or abetting of a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions to practice dental hygiene in a negligent or incompetent manner.
- (x) The failure to report to the committee in writing within seven days any of the following: (1) the death of his or her patient during the performance of any dental hygiene procedure; (2) the discovery of the death of a patient whose death is related to a dental hygiene procedure performed by him or her; or (3) except for a scheduled hospitalization, the removal to a hospital or emergency center for medical treatment for a period exceeding 24 hours of any patient as a result of dental or dental hygiene treatment. Upon receipt of a report pursuant to this subdivision, the committee may conduct an inspection of the dental hygiene practice office if the committee finds that it is necessary.
- (y) A registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions shall report to the committee all deaths

occurring in his or her practice with a copy sent to the dental board if the death occurred while working as an employee in a dental office. A dentist shall report to the dental board all deaths occurring in his or her practice with a copy sent to the committee if the death was the result of treatment by a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions.

1960.

For the first offense, a person is guilty of a misdemeanor and shall be punishable by a fine of not less than two hundred dollars (\$200) nor more than three thousand dollars (\$3,000), or by imprisonment in a county jail for not to exceed six months, or by both that fine and imprisonment, and for the second or a subsequent offense is guilty of a felony and upon conviction thereof shall be punished by a fine of not less than two thousand dollars (\$2,000) nor more than six thousand dollars (\$6,000), or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by both that fine and imprisonment, who does any of the following:

(a) Sells or barter or offers to sell or barter a dental hygiene degree or transcript or a license issued under, or purporting to be issued under, laws regulating licensure of registered dental hygienists, registered dental hygienists in alternative practice, or registered dental hygienists in extended functions.

(b) Purchases or procures by barter a diploma, license, or transcript with intent that it shall be used as evidence of the holder's qualification to practice dental hygiene, or in fraud of the laws regulating the practice of dental hygiene.

(c) With fraudulent intent, makes, attempts to make, counterfeits, or materially alters a diploma, certificate, or transcript.

(d) Uses, or attempts or causes to be used, any diploma, certificate, or transcript that has been purchased, fraudulently issued, counterfeited, or materially altered or in order to procure licensure as a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions.

(e) In an affidavit required of an applicant for an examination or license under this article, willfully makes a false statement in a material regard.

(f) Practices dental hygiene or offers to practice dental hygiene, as defined in this article, either without a license, or when his or her license has been revoked or suspended.

(g) Under any false, assumed or fictitious name, either as an individual, firm, **professional** corporation or otherwise, or any name other than the name under which he or she is licensed, practices, advertises, or in any other manner indicates that he or she practices or will practice dental hygiene, except a name specified in a valid permit issued pursuant to Section 1962.

1962.

(a) An association, partnership, **professional** corporation, or group of three or more registered dental hygienists in alternative practice engaging in practice under a name that would otherwise be in violation of Section 1960 may practice under that name if the association, partnership, corporation, or group holds an unexpired, unsuspended, and unrevoked permit issued by the committee under this section.

(b) An individual registered dental hygienist in alternative practice or a pair of registered dental hygienists in alternative practice who practice dental hygiene under a name that would otherwise violate Section 1960 may practice under that name if the licensees hold a valid permit issued by the committee under this section. The committee shall issue a written permit authorizing the holder to use a name specified in the permit in connection with the holder's practice if the committee finds all of the following:

(1) The applicant or applicants are duly licensed registered dental hygienists in alternative practice.

(2) The place where the applicant or applicants practice is owned or leased by the applicant or applicants, and the practice conducted at the place is wholly owned and entirely controlled by the applicant or applicants and is an approved area or practice setting pursuant to Section 1926.

(3) The name under which the applicant or applicants propose to operate contains at least one of the following designations: "dental hygiene group," "dental hygiene practice," or "dental hygiene office," contains the family name of one or more of the past, present, or prospective associates, partners, shareholders, or members of the group, and is in conformity with Section 651 and not in violation of subdivisions (i) and (l) of Section 1950.5.

(4) All licensed persons practicing at the location designated in the application hold valid licenses and no charges of unprofessional conduct are pending against any person practicing at that location.

(c) A permit issued under this section shall expire and become invalid unless renewed in the manner provided for in this article for the renewal of permits issued under this article.

(d) A permit issued under this section may be revoked or suspended if the committee finds that any requirement for original issuance of a permit is no longer being fulfilled by the permitholder. Proceedings for revocation or suspension shall be governed by the Administrative Procedure Act.

(e) If charges of unprofessional conduct are filed against the holder of a permit issued under this section, or a member of an association, partnership, group, or **professional** corporation to whom a permit has been issued under this section, proceedings shall not be commenced for revocation or suspension of the permit until a final determination of the charges of unprofessional conduct, unless the charges have resulted in revocation or suspension of a license.

Potential Language Modeled after DBC's Act related to Corporations

Please find below sections researched by staff relating to corporations and suggested amended language:

Registered Dental Hygienist in Alternative Practice Corporations

Definition; Right to Practice

XXXX. A registered dental hygienist in alternative practice corporation is a corporation that is authorized to render professional services, as defined in Sections 13401 and 13401.5 of the Corporations Code, if that corporation, its shareholders, officers, directors, and employees rendering professional services who are licensed dentists, registered dental assistants, registered dental hygienists, registered dental hygienists in extended functions, or registered dental hygienists in alternative practice are in compliance with the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), this article, and other statutes, rules, and regulations applicable to a registered dental hygienist in alternative practice corporation and the conduct of its affairs. Subject to all applicable statutes, rules, and regulations, a registered dental hygienist in alternative practice corporation is entitled to practice dental hygiene. 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.

Corporate Names

XXXX. Notwithstanding subdivision (e) and (h) of Section 1950.5, the name of a registered dental hygienist in alternative practice corporation and any name or names under which it may be rendering professional services shall contain and be restricted to the name or the last name of one or more of the present, prospective, or former shareholders and shall include the words "registered dental hygienist in alternative practice corporation" or wording or abbreviations denoting corporate existence, unless otherwise authorized by a valid permit issued pursuant to Section 1962.

Licensure Requirement

XXXX. Except as provided in Sections 13401.5 and 13403 of the Corporations Code, each director, shareholder, and officer of a registered dental hygienist in alternative practice corporation shall be a licensed person as defined in the Moscone-Knox Professional Corporation Act.

Disbursement of Income Attributable to disqualified shareholders

XXXX. 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 the Moscone-Knox Professional Corporation Act) shall not in any manner accrue to the benefit of that shareholder or his or her shares in the dental corporation.

Unprofessional Conduct; Disciplinary Proceedings

XXXX. A registered dental hygienist in alternative practice corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute, rule or regulation now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by such statutes, rules and regulations to the same extent as a person holding a license under Sections 1917, 1917.1, 1917.2, 1918, 1920 of this code. The board shall have the same powers of suspension, revocation and discipline against a registered dental hygienist in alternative practice corporation as are now or hereafter authorized by Section 1949 of this code, or by any other similar statute against individual licensees, provided, however, that proceedings against a dental corporation shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

Code: Section:

Search

[Up^](#)[Add To My Favorites](#)**BUSINESS AND PROFESSIONS CODE - BPC****DIVISION 2. HEALING ARTS [500 - 4999.129]** (Division 2 enacted by Stats. 1937, Ch. 399.)**CHAPTER 5.7. Physical Therapy [2600 - 2696]** (Chapter 5.7 added by Stats. 1953, Ch. 1826.)**ARTICLE 10. Physical Therapy Corporations [2690 - 2696]** (Heading of Article 10 renumbered from Article 8 by Stats. 2013, Ch. 389, Sec. 79.)

2690. A physical therapy corporation is a corporation that is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are physical therapists are in compliance with the Moscone-Knox Professional Corporation Act, this article and all other statutes and regulations now or hereafter enacted or adopted pertaining to the corporation and the conduct of its affairs.

With respect to a physical therapy corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Physical Therapy Board of California.

(Amended by Stats. 1996, Ch. 829, Sec. 69. Effective January 1, 1997.)

2691. It shall constitute unprofessional conduct and a violation of this chapter for any person licensed under this chapter to violate, attempt to violate, directly or indirectly, or 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.

(Repealed and added by Stats. 1980, Ch. 1314, Sec. 10.)

2692. A physical therapy corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute or regulation, now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by such statutes and regulations to the same extent as a person holding a license under this chapter.

(Repealed and added by Stats. 1980, Ch. 1314, Sec. 10.)

2693. The name of a physical therapy corporation and any name or names under which it may render professional services shall contain the words "physical therapy" or "physical therapist", and wording or abbreviations denoting corporate existence.

(Repealed and added by Stats. 1980, Ch. 1314, Sec. 10.)

2694. Except as provided in Section 13403 of the Corporations Code, each shareholder, director and officer of a physical therapy corporation, except an assistant secretary and an assistant treasurer, shall be a licensed person as defined in Section 13401 of the Corporations Code.

(Repealed and added by Stats. 1980, Ch. 1314, Sec. 10.)

2695. The income of a physical therapy corporation attributable to professional services rendered while a shareholder is a disqualified person, as defined in 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 physical therapy corporation.

(Repealed and added by Stats. 1980, Ch. 1314, Sec. 10.)

2696. The board may adopt and enforce regulations to carry out the purposes and objectives of this article, including regulations requiring (a) that the bylaws of a physical therapy corporation shall include a provision whereby the capital stock of the corporation owned by a disqualified person (as defined in Section 13401 of the

Corporations Code), or a deceased person, shall be sold to the corporation or to the remaining shareholders of the corporation within the time as the regulations may provide, and (b) that a physical therapy corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

(Amended by Stats. 1996, Ch. 829, Sec. 70. Effective January 1, 1997.)

Code: Section: Search [Up^](#)[Add To My Favorites](#)**BUSINESS AND PROFESSIONS CODE - BPC****DIVISION 2. HEALING ARTS [500 - 4999.129]** (*Division 2 enacted by Stats. 1937, Ch. 399.*)**CHAPTER 5.3. Speech-Language Pathologists and Audiologists [2530 - 2539.14]** (*Heading of Chapter 5.3 amended by Stats. 1992, Ch. 427, Sec. 2.*)**ARTICLE 7. Speech-Language Pathology Corporations and Audiology Corporations [2536 - 2537.5]** (*Heading of Article 7 amended by Stats. 1994, Ch. 26, Sec. 38.*)

2536. A speech-language pathology corporation or an audiology corporation is a corporation which is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are speech-language pathologists or audiologists are in compliance with the Moscone-Knox Professional Corporation Act, this article, and all other statutes and regulations now or hereafter enacted or adopted pertaining to the corporation and the conduct of its affairs.

With respect to a speech-language pathology corporation or an audiology corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Speech-Language Pathology and Audiology Board.

(*Amended by Stats. 1997, Ch. 758, Sec. 31. Effective January 1, 1998.*)

2537. It shall constitute unprofessional conduct and a violation of this chapter for any person licensed under this chapter to violate, attempt to violate, directly or indirectly, or 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.

(*Repealed and added by Stats. 1980, Ch. 1314, Sec. 6.*)

2537.1- A speech-language pathology corporation or an audiology corporation shall not do or fail to do any act that the doing or failing to do would constitute unprofessional conduct under any statute or regulation now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by those statutes and regulations to the same extent as a person holding a license under this chapter.

(*Amended by Stats. 1994, Ch. 26, Sec. 39. Effective March 30, 1994.*)

2537.2. Except as provided in Sections 13401.5 and 13403 of the Corporations Code, each shareholder, director and officer of a speech-language pathology corporation or an audiology corporation, except an assistant secretary and an assistant treasurer, shall be a licensed person as defined in Section 13401.

(*Amended by Stats. 1994, Ch. 26, Sec. 40. Effective March 30, 1994.*)

2537.3- The income of a speech-language pathology corporation or an audiology corporation attributable to professional services rendered while a shareholder is a disqualified person, as defined in Section 13401 of the Corporations Code, shall not in any manner accrue to the benefit of that shareholder or his or her shares in the speech-language pathology or audiology corporation.

(*Amended by Stats. 1994, Ch. 26, Sec. 41. Effective March 30, 1994.*)

2537.4. (a) The name of a speech-language pathology corporation under which it may render professional services shall include one of the words specified in subdivision (a) of Section 2530.3 and the word "corporation" or wording or abbreviations denoting corporate existence.

(b) The name of an audiology corporation under which it may render professional services shall include one of the

words specified in subdivision (b) of Section 2530.3 and the word "corporation" or wording or abbreviations denoting corporate existence.

(Added by renumbering Section 2538 by Stats. 1998, Ch. 1058, Sec. 5. Effective January 1, 1999.)

2537.5. The board may adopt and enforce regulations to carry out the purposes and objectives of this article, and the Moscone-Knox Professional Corporation Act, including regulations requiring any of the following:

(a) That the bylaws of a speech-language pathology corporation or an audiology corporation shall include a provision whereby the capital stock of the corporation owned by a disqualified person as defined in Section 13401 of the Corporations Code, or by the estate of a deceased person shall be sold to the corporation or to the remaining shareholders of the corporation within that time as the regulations may provide.

(b) That a speech-language pathology corporation or an audiology corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

(Added by renumbering Section 2539 by Stats. 1998, Ch. 1058, Sec. 7. Effective January 1, 1999.)



Monday, March 2, 2015

Dental Hygiene Committee of California

Teleconference

Agenda Item 5

Adjournment