



## Registered Nurses and Advanced Practice Nurses

### Elective Cosmetic Medical Procedures or Treatments: Med Spa

#### Legislation enacted during 2011-2012 Session

Assembly Bill 1548, (Carter) Chapter 140 is an act to add Section 2417.5 to the Business and Professions Code, relating to practice of medicine, cosmetic surgery, employment of physicians and surgeons.

Approved by Governor Edmund G. Brown, Jr., July 17, 2012. Filed with the Secretary of State July 17, 2012. This amendment to the law increases the penalties for illegally owning and operating a medical spa.

Current law already requires that medical businesses operating in California be owned by a physician or owned at least 51 percent by a physician and the remainder by a licensed practitioner, such as a nurse. Additionally, patients must be examined by a physician or an advanced practitioner, such as a nurse, or a physician assistant, before treatments are administered.

This bill, with respect to business organization that provide outpatient elective cosmetic procedures or treatments, that are owned and operated in violation of the prohibition against employment of licensed physician and surgeon and podiatrist, and contracts with or employs these licensees to facilitate the offer or provision of procedures or treatments that may only be provided by these licensees, would make that business organization guilty of a violation of the prohibition against knowingly making or causing to be made any false or fraudulent claim of payment of a health care benefit.

The Medical Practice Act restricts the employment of licensed physicians and surgeons and podiatrists by a corporation or other artificial legal entity, subject to specific exemptions. Existing law makes it unlawful to knowingly make, or cause to make, any false or fraudulent claim for payment of health care benefit, or to aid, abet, solicit, or conspire with any person to do so, and makes a violation of this prohibition public offense.

#### **THE PEOPLE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**Section 1.** The Legislature finds and declares that the Medical Practice Act prohibits corporations and other artificial legal entities from exercising professional rights, privileges, or powers, as described in Article 18, (commencing with Section 2400) of Chapter 5 of Division 2 of the Business and Professions Code, and that the prohibited conduct described in Section 2417.5 of the Business and Professions Code, as added by this act, is declaratory of existing law.

**Sec.2.** Section 2417.5 is added to the Business and Professions Code to read:

**2417.** (a) A business organization that offers to provide, or provides, outpatient elective cosmetic medical procedures or treatments, that is owned and operated in violation of Section 2400, and that contracts with or otherwise employs, a physician and surgeon to facilitate its offers to provide, or the provision of, outpatient elective cosmetic medical procedures or treatment that may be provided only by the holder of a valid physician's and surgeon's certificate is guilty of violation paragraph (6) of Section 550 of the Penal Code.

(b) For purposes of this section, "outpatient elective cosmetic medical procedures or treatments" means medical procedures or treatments that are performed to alter or reshape normal structures of the body solely in order to improve appearance.

(c) Nothing in this section shall be construed to alter or apply to arrangements currently authorized by law, including but not limited to, an entity operating a medical facility or other business authorized to provide medical services under Section 1206 of the Health and Safety Code.

**Sec.3.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.