STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2267 By: Bastin

AS INTRODUCED

An Act relating to podiatric physicians; amending 18 O.S. 1991, Section 803, as amended by Section 1, Chapter 345, O.S.L. 1993 (18 O.S. Supp. 1993, Section 803), which relates to the Professional Corporation Act; amending 59 O.S. 1991, Section 160.1, as amended by Section 16, Chapter 150, O.S.L. 1993 (59 O.S. Supp. 1993, Section 160.1), which relates to chiropody; amending 59 O.S. 1991, Section 535, which relates to physicians; amending 59 O.S. 1991, Section 738.1, which relates to certain medical professionals; updating specific terms; amending 76 O.S. 1991, Section 24, which relates to torts; removing certain occupations from definitions; amending 85 O.S. 1991, Section 14, as last amended by Section 7, Chapter 349, O.S.L. 1993 (85 O.S. Supp. 1993, Section 14), which relates to workers' compensation; modifying term; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 18 O.S. 1991, Section 803, as amended by Section 1, Chapter 345, O.S.L. 1993 (18 O.S. Supp. 1993, Section 803), is amended to read as follows:

Section 803. A. As used herein, unless the context clearly indicates that a different meaning is intended:

1. "Professional corporation" means a corporation organized under the Professional Corporation Act.

2. "Professional service" means the personal service rendered by:

a. A physician, surgeon or doctor of medicine pursuant to a license under Title 59 of the Oklahoma Statutes, Sections 481 through 524, and any subsequent laws regulating the practice of medicine.

b. An osteopathic physician or surgeon pursuant to a license under Title 59 of the Oklahoma Statutes, Sections 621 through 643, and any subsequent laws regulating the practice of osteopathy.

c. A chiropractor pursuant to a license under Title 59 of the Oklahoma Statutes, Sections 161 through 170, and any subsequent laws regulating the practice of chiropractic.

d. A ~~chiropodist-podiatrist~~ podiatric physician pursuant to a license under Title 59 of the Oklahoma Statutes, Sections ~~136~~ 135.1 through 160.2, and any subsequent laws regulating the practice of ~~chiropody~~ podiatric medicine.

e. An optometrist pursuant to a license under Title 59 of the Oklahoma Statutes, Sections 581 through 606, and any subsequent laws regulating the practice of optometry.

f. A veterinarian pursuant to a license under Title 59 of the Oklahoma Statutes, Sections 698.1 through 698.19,

and any subsequent laws regulating the practice of veterinary medicine.

g. An architect pursuant to a license under Title 59 of the Oklahoma Statutes, Sections 45.1 through 45.24, and any subsequent laws regulating the practice of architecture.

h. An attorney pursuant to his authority to practice law granted by the Supreme Court of the State of Oklahoma.

i. A dentist pursuant to a license under Title 59 of the Oklahoma Statutes, Sections 328.1 through 328.50, and any subsequent laws regulating the practice of dentistry.

j. A public accountant pursuant to his authority to practice accounting under Title 59 of the Oklahoma Statutes, Sections 15.1 through 15.35, and any subsequent laws regulating the practice of public accountancy.

k. A psychologist pursuant to a license under Title 59 of the Oklahoma Statutes, Sections 1351 through 1375, and any subsequent laws regulating the practice of psychology.

l. A physical therapist pursuant to a license under Title 59 of the Oklahoma Statutes, Sections 887.1 through 887.17, and any subsequent laws regulating the practice of physical therapy.

m. A registered nurse pursuant to a license under Title 59 of the Oklahoma Statutes, Sections 567.1 through 567.16, and any other subsequent laws regulating the practice of nursing.

n. A professional engineer pursuant to a license under Sections 475.1 through 475.22 of Title 59 of the

Oklahoma Statutes, and any subsequent laws relating to the practice of engineering.

o. A land surveyor pursuant to a license under Sections 475.24 through 475.37 of Title 59 of the Oklahoma Statutes, and any subsequent laws relating to the practice of land surveying.

3. "Related professional services" means those services which are combined for professional corporation purposes as follows:

a. Any combination of the following professionals:

(1) A physician, surgeon or doctor of medicine pursuant to a license under Sections 481 through 524 of Title 59 of the Oklahoma Statutes, and any subsequent laws regulating the practice of medicine;

(2) An osteopathic physician or surgeon pursuant to a license under Sections 621 through 643 of Title 59 of the Oklahoma Statutes, and any subsequent laws relating to the practice of osteopathy;

(3) A dentist pursuant to a license under Sections 328.1 through 328.50 of Title 59 of the Oklahoma Statutes, and any subsequent laws regulating the practice of dentistry;

(4) A chiropractor pursuant to a license under Title 59 of the Oklahoma Statutes, Sections 161 through 170, and any subsequent laws regulating the practice of chiropractic;

(5) A psychologist pursuant to a license under Title 59 of the Oklahoma Statutes, Sections 1351 through 1375, and any subsequent laws regulating the practice of psychology; or

(6) A ~~podiatrist~~ podiatric physician pursuant to a license under Sections ~~136~~ 135.1 through 160.2 of

Title 59 of the Oklahoma Statutes, and any subsequent laws regulating the practice of ~~podiatry~~ podiatric medicine.

b. Any combination of the following professions:

(1) An architect pursuant to a license under Sections 45.1 through 45.24 of Title 59 of the Oklahoma Statutes, and any subsequent laws regulating the practice of architecture;

(2) A professional engineer pursuant to a license under Sections 475.1 through 475.22 of Title 59 of the Oklahoma Statutes, and any subsequent laws relating to the practice of engineering; or

(3) A land surveyor pursuant to a license under Sections 475.24 through 475.37 of Title 59 of the Oklahoma Statutes, and any subsequent laws relating to the practice of land surveying.

4. "Regulating board" means the board which is charged with the licensing and regulation of the practice of the profession which the professional corporation is organized to render.

5. "Individual", "incorporator" and "shareholder" each include the trustee of an express trust created by a person duly licensed to render a professional service who has the right to revoke said trust and who is serving as the trustee of said trust. Any certificate required by this act to be issued to an individual incorporator or shareholder may be issued to the grantor on behalf of a trust. All references in this act to death and incapacity of a shareholder shall include the death and incapacity of the grantor of a trust which own stock in a professional corporation.

6. "Incapacity" of a shareholder means a determination by a court of competent jurisdiction, or otherwise by two independent licensed physicians, that the share holder is fully incapacitated or is partially incapacitated to the extent that the shareholder is not

capable of rendering the professional service for which the professional corporation was organized.

7. "Other personal representative" include the successor trustee of an express trust owning stock in a professional corporation, which trust was created by a person duly licensed to render the professional service for which the professional corporation was organized who has the right to revoke the trust and who is the original trustee of the trust.

B. The definitions of the Oklahoma General Corporation Act shall apply to this act, unless the context clearly indicates that a different meaning is intended.

SECTION 2. AMENDATORY 59 O.S 1991, Section 160.1, as amended by Section 16, Chapter 150, O.S.L. 1993 (59 O.S. Supp. 1993, Section 160.1), is amended to read as follows:

Section 160.1 The terms ~~"chiropody",~~ "podiatry" and "podiatric medicine" are synonymous and mean the branch of the healing arts defined in the Podiatric Medicine Practice Act. Wherever in the Oklahoma Statutes reference is made to the term ~~"chiropody" or the term~~ "podiatry"~~,~~ the same shall be interpreted to mean "podiatric medicine"~~,~~ and wherever reference is made to the term ~~"chiropodist" or the term~~ "podiatrist"~~,~~ the same shall be interpreted to mean "podiatric physician".

SECTION 3. AMENDATORY 59 O.S. 1991, Section 535, is amended to read as follows:

Section 535. A. Nothing herein shall be construed to authorize the practice of medicine by any person. The provisions of this act do not apply to physicians licensed as such by the State Board of Medical Licensure and Supervision; to dentists, duly qualified and registered under the laws of this state who confine their practice strictly to dentistry; nor to licensed optometrists who confine their practice strictly to optometry as defined by law; nor to licensed chiropractors who confine their practice strictly to

chiropractic as defined by law; nor to licensed osteopathic physicians or osteopathic physicians and surgeons who confine their practice strictly to osteopathy as defined by law; nor to occupational therapists who confine their practice to occupational therapy; nor to nurses who practice nursing only; nor to duly licensed ~~chiropodists or podiatrists~~ podiatric physicians who confine their practice strictly to ~~chiropody or podiatry~~ podiatric medicine as defined by law; nor to physical therapists who confine their practice to physical therapy; nor to masseurs or masseuses in their particular sphere of labor; nor to commissioned or contract physicians or physical therapists or physical therapists' assistants in the United States Army, Navy, Air Force, Public Health and Marine Health Service.

B. The provisions of this act shall not apply to persons coming into this state for a specific athletic event or series of athletic events with an individual or group not based in this state.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 738.1, is amended to read as follows:

Section 738.1 Injunctions, without bond, may be granted by district and superior courts to the ~~Oklahoma State~~ Board of ~~Chiropody~~ Podiatric Medical Examiners, the Board of Chiropractic Examiners, the State Board of Medical Licensure and Supervision, the Board of Examiners in Optometry, the Board of Pharmacy, or the State Board of Osteopathy, for the purpose of enforcing the respective acts and laws creating and establishing such boards.

SECTION 5. AMENDATORY 76 O.S. 1991, Section 24, is amended to read as follows:

Section 24. In Sections ~~5~~ 25 through ~~10~~ 29 of this ~~act~~ title, the following definitions shall apply:

1. "Professional review body" means a public or private body organized in whole or in part for the purpose of maintaining standards of conduct and competence for accountants, architects,

~~chiropodists, chiropractors, dentists,~~ professional engineers, nurses, pharmacists, physicians, psychologists or veterinarians;

2. "Professional review action" means an action or recommendation taken or made by a professional review body which adversely affects a person's ability to perform his profession but shall not include actions taken or recommendations made by a private professional review body against a person who does not have a reasonable connection to the body's sponsoring organization; and

3. "Sponsoring organization" means a professional association or an institution through which persons practice their professions in whole or in part.

SECTION 6. AMENDATORY 85 O.S. 1991, Section 14, as last amended by Section 7, Chapter 349, O.S.L. 1993 (85 O.S. Supp. 1993, Section 14), is amended to read as follows:

Section 14. A. The employer shall promptly provide for an injured employee such medical, surgical or other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus as may be necessary after the injury. The attending physician shall supply the injured employee and the employer with a full examining report of injuries found at the time of examination and proposed treatment, this report to be supplied within seven (7) days after the examination; also, at the conclusion of the treatment the attending physician shall supply a full report of his treatment to the employer of the injured employee.

B. The employer's selected physician shall have the right to examine the injured employee. A report of such examination shall be furnished the injured employee within seven (7) days after such examination.

C. If the employer fails or neglects to provide the same within a reasonable time after knowledge of the injury, the injured employee, during the period of such neglect or failure, may do so at the expense of the employer; provided, however, that the injured

employee, or another in his behalf, may obtain emergency treatment at the expense of the employer where such emergency treatment is not provided by the employer. Notwithstanding any other provision of this section, the employee may select a physician of his choice to render necessary medical treatment, at the expense of the employer. The attending physician so selected by the employee shall notify the employer and/or the insurance carrier within seven (7) days after examination or treatment was first rendered.

D. The term "physician" as used in ~~this section shall mean~~ the Workers' Compensation Act means any person ~~licensed in Oklahoma as a medical doctor, chiropractor, chiropodist, dentist~~ holding a valid license to practice medicine and surgery, osteopathic ~~physician or optometrist~~ medicine, chiropractic, podiatric medicine, optometry or dentistry pursuant to the state licensing provisions of Title 59 of the Oklahoma Statutes. The Court may accept testimony from a psychologist if the testimony is made under the direction of a medical doctor. If such injured employee should become deceased, whether or not he has filed a claim, such fact shall not affect liability for medical attention previously rendered, and any person or persons entitled to such benefits may enforce charges therefor as though such employee had survived.

E. Whoever renders medical, surgical or other attendance or treatment, nurse and hospital service, medicine, crutches and apparatus, or emergency treatment, may submit such charges and duration of treatment to the Administrator of the Court for review in accordance with the rules of the Administrator. Such charges and duration of treatment shall be limited to the usual, customary and reasonable charges and duration of treatment as prescribed and limited by a schedule of fees and treatment for all medical providers to be adopted, after notice and public hearing, by the Administrator. Said fee and treatment schedule shall be based on the usual, customary and reasonable medical charges of health care

providers in the same trade area for comparable treatment of a person with similar injuries and the duration of treatment prevailing in this state for persons with similar injuries. The fee and treatment schedule shall be reviewed biennially by the Administrator and, after such review, and notice and public hearing, the Administrator shall be empowered to amend or alter said fee and treatment schedule to ensure its adequacy; provided, however, the fee and treatment schedule shall not be amended or altered until 1995 except to require the utilization of the latest Current Procedural Terminology (CPT) codes as published by the American Medical Association or to provide for the reduction of charges or duration of treatment. The Administrator's review of medical and treatment charges pursuant to this section shall be conducted pursuant to the fee and treatment schedule in existence at the time the medical care or treatment was provided. The order of the Administrator approving medical and treatment charges pursuant to this section shall be enforceable by the Court in the same manner as provided in the Workers' Compensation Act for the enforcement of other compensation payments. Any party feeling aggrieved by the order, decision or award of the Administrator shall, within ten (10) days, have the right to request a hearing on such medical and treatment charges by a judge of the Workers' Compensation Court. The judge of the Court may affirm the decision of the Administrator, or reverse or modify said decision only if it is found to be contrary to the fee and treatment schedule existing at the time the said medical care or treatment was provided. The order of the judge shall be subject to the same appellate procedure set forth in Section 3.6 of this title for all other orders of the Court. The right to recover charges for every type of medical care for personal injuries arising out of and in the course of covered employment as herein defined, shall lie solely with the Workers' Compensation Court, and all jurisdiction of the other trial courts of this state

over such action is hereby abolished. The foregoing provision, relating to approval and enforcement of such charges and duration of treatment, shall not apply where a written contract exists between the employer or insurance carrier and the person who renders such medical, surgical or other attendance or treatment, nurse and hospital service, or furnishes medicine, crutches or apparatus.

F. The Court or Administrator shall have authority on application of employee or employer or its insurance carrier to order a change of physicians at the expense of the employer when, in its judgment, such change is desirable or necessary; provided, the employer shall not be liable to make any of the payments provided for in this section, in case of contest of liability, where the Court shall decide that the injury does not come within the provisions of the Workers' Compensation Act.

G. If the employee chooses a physician for treatment and subsequently changes physicians without the approval of the Court or Administrator, or without agreement of the parties, the maximum liability of the employer for the aggregate expenses of all such subsequent physicians shall be Five Hundred Dollars ($500.00). Provided, the limitations shall not apply to referrals by the treating physician for treatment or diagnostic procedures.

SECTION 7. This act shall become effective September 1, 1994.

44-2-8316 KSM