

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1406

By: Vaughn

AS INTRODUCED

An Act relating to health professions; creating the Oklahoma Health Professions Regulation Review Act; defining terms; creating a joint legislative committee; providing for review of certain proposals regarding regulation of certain health professions or increase or modification of scope of practice of certain licensed health professions; providing for powers and duties; providing for reports; specifying contents; providing for review and comments; requiring report on findings; providing for uses; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 451.1 of Title 74, unless there is created a duplication in numbering, reads as follows:

Sections 2 through 5 of this act shall be known and may be cited as the "Oklahoma Health Professions Regulation Review Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 451.2 of Title 74, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Health Professions Regulation Review Act:

1. "Applicant group" means any association, group or organization, any individual or any other interested party which proposes that any health professional group not licensed pursuant to the laws of this state be regulated or members of a licensed health profession which proposes to increase the scope or otherwise modify the scope of practice of their health profession;

2. "Grandfather clause" means a provision applicable to practitioners actively engaged in the regulated health profession before the effective date of a law which exempts the practitioners from meeting the prerequisite qualifications set forth in the law;

3. "Health profession" means a profession in which a person provides any health services to another person including assessment, consultation, examination, preventive and curative treatment, surgical, hospitalization, and psychological or psychiatric services;

4. "Increase the scope of practice" means the authorization to engage in conduct beyond the authority currently or previously granted to a licensed health profession by law;

5. "Joint committee" means the Joint Committee on Oklahoma Health Professions Regulation Review Act created pursuant to Section 3 of this act;

6. "Licensed health profession" means any health profession which is regulated by this state and includes but is not limited to:

- a. podiatry pursuant to Chapter 4 of Title 59 of the Oklahoma Statutes,
- b. chiropractic pursuant to Chapter 5 of Title 59 of the Oklahoma Statutes,

- c. dentistry pursuant to Chapter 7 of Title 59 of the Oklahoma Statutes,
- d. medicine pursuant to Chapter 11 of Title 59 of the Oklahoma Statutes,
- e. nursing pursuant to Chapter 12 of Title 59 of the Oklahoma Statutes,
- f. dispensing opticians pursuant to Chapter 24 of Title 59 of the Oklahoma Statutes,
- g. optometry pursuant to Chapter 13 of Title 59 of the Oklahoma Statutes,
- h. osteopathic medicine pursuant to Chapter 14 of Title 59 of the Oklahoma Statutes,
- i. pharmacy pursuant to Chapter 8 of Title 59 of the Oklahoma Statutes,
- j. physical therapy pursuant to Chapter 21 of Title 59 of the Oklahoma Statutes,
- k. psychology pursuant to Chapter 34 of Title 59 of the Oklahoma Statutes,
- l. veterinary medicine pursuant to Chapter 15 of Title 59 of the Oklahoma Statutes,
- m. physician's assistants pursuant to Chapter 11 of Title 59 of the Oklahoma Statutes,
- n. occupational therapy pursuant to Chapter 21A of Title 59 of the Oklahoma Statutes,
- o. midwifery pursuant to Chapter 12 of Title 59 of the Oklahoma Statutes,
- p. speech pathology and audiology pursuant to Chapter 39 of Title 59 of the Oklahoma Statutes,
- q. dietitians pursuant to Chapter 42 of Title 59 of the Oklahoma Statutes,
- r. licensed professional counselors pursuant to Chapter 44 of Title 59 of the Oklahoma Statutes,

- s. marital and family therapists pursuant to Chapter 44A of Title 59 of the Oklahoma Statutes, or
- t. social worker pursuant to Chapter 32 of Title 59 of the Oklahoma Statutes.

7. "Licensure" or "license" means an individual, nontransferable authorization including but not limited to certification or registration to carry on a health activity which would otherwise be unlawful in this state in the absence of the permission, examination or a series of examinations;

8. "Practitioner" means an individual who has achieved knowledge and skill by practice and who is actively engaged in a specified health profession;

9. "Regulatory entity" means any board, commission, agency or department of this state which regulates one or more health professions in this state; and

10. "State agency" means any department, board, commission or agency of this state.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 451.3 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. 1. There is hereby created as a joint committee of the Oklahoma State Legislature, the Joint Committee on Oklahoma Health Professions Regulation Review. The joint committee shall be composed of the members of the House of Representatives who have been appointed and are serving on the Health and Mental Health Committee of the House of Representatives and the members of the State Senate who have been appointed and are serving on the Human Resources Committee of the State Senate or their successor committees.

2. The chairmen of the House and Senate Committees shall serve as cochairmen of the joint committee.

3. The joint committee shall function as a committee of the Oklahoma State Legislature when the Legislature is in session and when the Legislature is not in session.

4. The joint committee may meet at any time, both during sessions of the Legislature and in the interim.

B. The joint committee shall meet at the call of the cochairmen of the joint committee. The joint committee shall provide a public forum for the discussion of issues it considers relevant in its consideration of the regulation of a nonregulated health profession or increasing or otherwise modifying the scope of practice of a licensed health profession. The joint committee shall hold such public forums, as far as possible and practical, in locations across the state.

C. The joint committee may review the report submitted pursuant to Section 4 of this act and such other information deemed necessary by the joint committee to enable the joint committee to make findings of recommendations to the Legislature regarding any proposed legislation.

D. Upon completion of the review of documents and information, the joint committee may prepare and submit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate a report containing any findings relating to activities presented concerning the nonregulated health professional group or the proposed increasing or modification of the scope of practice of a licensed health profession.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 451.4 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Any proposed regulation of any unregulated health profession and the increase or modification of the scope of practice of a licensed health profession shall be for the purpose of protecting the public health, safety and welfare.

1. Any applicant group proposing the regulation of any health profession not regulated or proposing to increase or modify the scope of practice of a health profession shall submit to the joint committee a written report explaining each of the factors specified in this section to the extent requested by the joint committee. The report shall be submitted on or before September 1 prior to the start of the legislative session for which any legislation is proposed.

2. All proposed legislation to regulate a health profession for the first time or increase or modify the scope of practice of a licensed health profession shall be submitted to the joint committee for review.

B. The report required pursuant to subsection A of this section for the regulation of an unregulated health profession shall explain each of the following factors to the extent requested by the joint committee:

1. A definition of the problem and why regulation and licensure is necessary including:

- a. the nature of the harm or potential harm to the public if the health profession is not regulated and the extent to which there is a threat to public health, safety or welfare,
- b. the extent to which consumers need and will benefit from a method of regulation identifying competent practitioners and indicating typical employers, if any, of practitioners in the health profession, and
- c. the extent of autonomy a practitioner has, as indicated by the following:
  - (1) the extent to which the health profession calls for independent judgment and the extent of skill or experience required in making the independent judgment, and

(2) the extent to which practitioners are supervised;

2. The efforts made to address the problem including:

a. voluntary efforts, if any, by members of the health profession to either:

(1) establish a code of ethics, or

(2) help resolve disputes between health practitioners and consumers, and

b. recourse to and the extent of use of applicable law and whether it could be amended to control the problem;

3. The alternatives to regulation including but not limited to why the public cannot be effectively protected by other means in a more cost-beneficial manner;

4. The benefit to the public if licensure and regulation is granted including:

a. the extent to which the incidence of specific problems present in the unregulated health profession can reasonably be expected to be reduced by regulation,

b. whether the public can identify qualified practitioners,

c. the extent to which the public can be confident that qualified practitioners are competent including:

(1) the composition of the board and the number of public members, if any, the powers and duties of the board or state agency regarding examinations and for cause revocation, suspension and nonrenewal of licenses, the adoption of rules and canons of ethics, the conduct of inspections, the receipt of complaints and disciplinary action taken against practitioners and how fees would be levied and collected to pay for the expenses of

administering and operating the regulatory system,

- (2) if there is a grandfather clause, whether grandfathered practitioners will be required to meet the prerequisite qualifications established by the regulatory entity at a later date,
- (3) the nature of the standards proposed for licensure as compared with the standards of other jurisdictions,
- (4) whether the regulatory entity would be authorized to enter into reciprocity agreements with other jurisdictions, and
- (5) the nature of duration of any training including whether the training includes a substantial amount of supervised field experience, whether training programs exist in this state, if there will be an experience requirement, whether the experience must be acquired under a registered, certified or licensed practitioner, whether there are alternative routes of entry or methods of meeting the prerequisite qualifications, whether all applicants will be required to pass an examination, and if an examination is required, by whom it will be developed, and

d. assurance of the public that practitioners have maintained their competence including:

- (1) whether the licensure will carry an expiration date, and
- (2) whether renewal will be based only on payment of a fee or whether renewal will involve reexamination, continuing education, peer review or other enforcement;

5. The extent to which regulation might harm the public including:

- a. the extent to which regulation will restrict entry into the health profession, and
- b. whether there are professions similar to that of the applicant group which should be included in, or portions of the applicant group which should be excluded from, the proposed legislation;

6. A description of the group proposed for regulation, including a list of associations, organizations or other groups representing the practitioners in this state, an estimate of the number of practitioners in each group and whether the groups represent different levels of practice; and

7. The expected costs of regulation including:

- a. the impact registration, certification or licensure will have on the costs of the services to the public, and
- b. the cost to this state and to the general public of implementing the proposed legislation.

C. The report required by subsection A of this section to increase or otherwise modify the scope of practice of a licensed health profession shall explain each of the following factors to the extent requested by the joint committee:

1. A definition of the problem and why a change in scope of practice is necessary including the extent to which consumers need and will benefit from practitioners with this scope of practice;

2. The extent to which the public can be confident that qualified practitioners are competent including:

- a. evidence that the profession's regulatory board has functioned adequately in protecting the public,
- b. whether effective quality assurance standards exist in the licensed health profession, such as legal

requirements associated with specific programs that define or endorse standards or a code of ethics, and

c. evidence that state-operated educational programs provide or are willing to provide core curriculum adequate to prepare practitioners at the proposed level;

3. The extent to which an increase or modification in the scope of practice may harm the public including the extent to which an increase or modification of the scope of practice will restrict entry into practice and whether the proposed legislation requires licensed practitioners in other jurisdictions who migrate to this state to qualify in the same manner as state applicants for licensure if the other jurisdiction has substantially equivalent requirements for licensure as those in this state; and

4. The cost to this state and to the general public of implementing the proposed increase or modification in the scope of practice.

D. The applicant group shall also send for review and comment copies of the written report required pursuant to subsection A of this section to any state associations or state groups representing persons within any unregulated health profession or the regulatory entity, state agency and state association or state groups representing any licensed health profession affected by the increase or modification of the scope of practice of the licensed health profession.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 451.5 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The joint committee shall study the written report and may deliver a report of its findings to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Governor and, if appropriate, the regulatory board of the licensed

health profession on or before December 1 of the year in which the report is submitted.

B. Any report so submitted shall not be binding, shall be for informational purposes only and shall include a summary of any specific concerns regarding the licensure of any unregulated health profession or regarding the increase or modification of the scope or practice of the licensed health profession.

SECTION 6. This act shall become effective July 1, 1995.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

45-1-5113

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