STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2090 By: Hilliard

COMMITTEE SUBSTITUTE

An Act relating to professions and occupations; amending 59 O.S. 1991, Sections 725.2, as amended by Section 1, Chapter 168, O.S.L. 1993, 731.2, as amended by Section 3, Chapter 168, O.S.L. 1993 and 731.5, as amended by Section 6, Chapter 222, O.S.L. 1997 (59 O.S. Supp. 1999, Sections 725.2, 731.2 and 731.5), which relate to the healing arts; adding to list of persons who may use the term "Doctor"; conforming language; amending 59 O.S. 1991, Section 492, as last amended by Section 1, Chapter 23, O.S.L. 1999 (59 O.S. Supp. 1999, Section 492), which relates to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act; conforming language; amending Section 2, Chapter 347, O.S.L. 1992, as last amended by Section 3, Chapter 389, O.S.L. 1998 (63 O.S. Supp. 1999, Section 1-116), which relates to the Oklahoma Health Care Information System Act, and 63 O.S. 1991, Sections 1-301, which relates to vital statistics, and 2552, which relates to the Uniform Duties to Disabled Persons Act; conforming language; and declaring an emergency.

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 725.2, as amended by Section 1, Chapter 168, O.S.L. 1993 (59 O.S. Supp. 1999, Section 725.2), is amended to read as follows:

Section 725.2 A. The following ~~seven~~ nine classes of persons may use the word "Doctor", or an abbreviation thereof, and shall have the right to use, whether or not in conjunction with the word "Doctor", or any abbreviation thereof, the following designations:

1. The letters "D.P.M." by a person licensed to practice podiatry under Chapter 4 of this title;

2. The letters "D.C." by a person licensed to practice chiropractic under Chapter 5 of this title;

3. The letters "D.D.S." by a person licensed to practice dentistry under Chapter 7 of this title;

4. The letters "M.D." by a person licensed to practice medicine and surgery under Chapter 11 of this title;

5. The letters "O.D." by a person licensed to practice optometry under Chapter 13 of this title; ~~and~~

6. The letters "D.O." by a person licensed to practice osteopathy under Chapter 14 of this title; ~~and~~

7. The letters Ph.D., Ed.D. or Psy.D. by a person licensed as a health service psychologist pursuant to the Psychologists Licensing Act;

8. The letters "Ph.D.", "Ed.D." or other letters representing a doctoral degree by a person licensed as a speech and language pathologist pursuant to the Speech Pathology and Audiology Licensing Act and who has earned a doctoral degree from a regionally accredited institution of higher learning in the field of speech and language pathology; and

9. The letters "Ph.D.", "Ed.D." or other letters representing a doctoral degree by a person licensed as an audiologist pursuant to the Speech Pathology and Audiology Licensing Act and who has earned a doctoral degree from a regionally accredited institution of higher learning in the field of audiology.

B. Unless otherwise specifically provided in a particular section or chapter of the Oklahoma Statutes, the word "doctor" or "doctors" shall mean and include each of the ~~seven~~ nine classes of persons listed in subsection A of this section.

C. Unless otherwise specifically provided in a particular section or chapter of the Oklahoma Statutes, the word "physician" or "physicians" shall mean and include each of the classes of persons listed in paragraphs 1 through 6 of subsection A of this section.

The term "physician" shall not include ~~a~~ any person ~~who is licensed as a health service psychologist pursuant to the Psychologists Licensing Act~~ specified in paragraphs 7 through 9 of subsection A of this section unless such person is otherwise authorized to use such designation pursuant to this section.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 731.2, as amended by Section 3, Chapter 168, O.S.L. 1993 (59 O.S. Supp. 1999, Section 731.2), is amended to read as follows:

Section 731.2 A. Proof that any class of ~~person~~ persons identified in Section 725.2 of this title appends to ~~his~~ their name the word "Doctor", the abbreviation "Dr.", or any other word, abbreviation or designation, which word, abbreviation or designation, indicate that ~~he or she~~ such person is qualified for diagnosis or treatment, as herein defined, shall constitute prima facie evidence that ~~he or she~~ such person is holding himself or herself out, within the meaning of this act, as qualified to engage in diagnosis or treatment.

B. Nothing in this section shall be construed to prevent a person specified in paragraphs 7 through 9 of subsection A of Section 725.2 of this title from appending to such person's name the word "Doctor", so long as such person follows such name and designation with the letters signifying the recognized doctoral degrees specified in paragraphs 7 through 9 of subsection A of Section 725.2 of this title.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 731.5, as amended by Section 6, Chapter 222, O.S.L. 1997 (59 O.S. Supp. 1999, Section 731.5), is amended to read as follows:

Section 731.5 Nothing in this act shall apply to:

1. Any commissioned officer in any of the healing arts licensed as such in the United States Army, Navy, Marines, Public Health Service, or Marine Hospital Service, in the discharge of ~~his~~ the professional duties of such officer;

2. Any ~~legally-qualified~~ legally qualified person when engaged exclusively in the practice of ~~his~~ the particular profession of such person, as defined by law;

3. Any licensed person practicing any of the healing arts from another state or territory, when in actual consultation with a licensed practitioner in this state;

4. Any physician's trained assistant who is assisting a licensed physician to render services within the licensed scope of practice of the physician, if the assistant is under the supervision and control of the physician;

5. Any student in any recognized school of the healing arts in carrying out prescribed courses of study provided such school is a recognized institution by the statutes of Oklahoma, and its practitioners are duly licensed as prescribed by law;

6. The practice of those who endeavor to prevent, or cure, disease or suffering, by spiritual means or prayer; or

7. Any legally qualified ~~psychologist~~ person specified in paragraphs 7 through 9 of subsection A of Section 725.2 of this title in the discharge of ~~his~~ the professional duties of the person, so long as ~~he~~ such person is employed by any state or governmental agency, or any recognized college or university.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 492, as last amended by Section 1, Chapter 23, O.S.L. 1999 (59 O.S. Supp. 1999, Section 492), is amended to read as follows:

Section 492. A. Every person shall be regarded as practicing allopathic medicine within the meaning and provisions of this act, who shall append to his or her name the letters "M.D.", ~~"Doctor", "Professor", "Specialist",~~ "Physician" or any other title, letters or designation which represent that such person is a physician, or who shall for a fee or any form of compensation diagnose and/or treat disease, injury or deformity of persons in this state by any

allopathic legend drugs, surgery, manual, or mechanical treatment unless otherwise authorized by law.

B. A hospital or related institution as such terms are defined in Section 1-701 of Title 63 of the Oklahoma Statutes, which has the principal purpose or function of providing hospital or medical care, including but not limited to any corporation, association, trust, or other organization organized and operated for such purpose, may employ one or more persons who are duly licensed to practice medicine in this state without being regarded as itself practicing medicine within the meaning and provisions of this section. The employment by the hospital or related institution of any person who is duly licensed to practice medicine in this state shall not, in and of itself, be considered as an act of unprofessional conduct by the person so employed. Nothing provided herein shall eliminate, limit, or restrict the liability for any act or failure to act of any hospital, any hospital's employees, or persons duly licensed to practice medicine.

C. The definition of the practice of medicine and surgery shall include, but is not limited to:

1. Advertising, holding out to the public, or representing in any manner that one is authorized to practice medicine and surgery in this state;

2. Any offer or attempt to prescribe, order, give, or administer any drug or medicine and surgery for the use of any other person, except as otherwise authorized by law;

3. a. Any offer or attempt, except as otherwise authorized by law, to prevent, diagnose, correct, or treat in any manner or by any means, methods, devises, or instrumentalities except for manual manipulation any disease, illness, pain, wound, fracture, infirmity, defect, or abnormal physical or mental condition of

any person, including the management of pregnancy and parturition, except as otherwise authorized by law.

b. Except as provided in subsection D of this section, performance by a person outside of this state, through an ongoing regular arrangement, of diagnostic or treatment services through electronic communications for any patient whose condition is being diagnosed or treated within this state. A person who performs any of the functions covered by this subparagraph submits himself or herself to the jurisdiction of the courts of this state for the purposes of any cause of action resulting from the functions performed.

c. Nothing in the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act shall be construed to affect or give jurisdiction to the Board over any person other than medical doctors or persons holding themselves out as medical doctors;

4. Any offer or attempt to perform any surgical operation upon any person, except as otherwise authorized by law; and

5. The use of the title Doctor of Medicine, Physician, Surgeon, Physician and Surgeon, Dr., M.D. or any combination thereof in the conduct of any occupation or profession pertaining to the prevention, diagnosis, or treatment of human disease or condition unless, where appropriate, such a designation additionally contains the description of another branch of the healing arts for which one holds a valid license in this state.

D. The practice of medicine and surgery, as defined in this section, shall not include:

1. A student while engaged in training in a medical school approved by the Board or while engaged in graduate medical training under the supervision of the medical staff of a hospital or other health care facility approved by the state medical board for such

training, except that a student engaged in graduate medical training shall hold a license issued by the Board for such training;

2. Any person who provides medical treatment in cases of emergency where no fee or other consideration is contemplated, charged or received;

3. A commissioned medical officer of the armed forces of the United States or medical officer of the United States Public Health Service of the Veterans Administration of the United States in the discharge of official duties and/or within federally controlled facilities; and provided that such person shall be fully licensed to practice medicine and surgery in one or more jurisdictions of the United States; provided further that such person who holds a medical license in this state shall be subject to the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act;

4. Any person licensed under any other act when properly practicing in the healing art for which that person is duly licensed;

5. The practice of those who endeavor to prevent or cure disease or suffering by spiritual means or prayer;

6. Any person administering a domestic or family remedy to a member of such person's own family;

7. Any person licensed to practice medicine and surgery in another state or territory of the United States who renders emergency medical treatment or briefly provides critical medical service at the specific lawful direction of a medical institution or federal agency that assumes full responsibility for that treatment or service and is approved by the Board;

8. Any person who is licensed to practice medicine and surgery in another state or territory of the United States whose sole purpose and activity is limited to brief actual consultation with a specific physician who is licensed to practice medicine and surgery

by the Board, other than a person with a special or restricted license; or

9. The practice of any other person as licensed by appropriate agencies of this state, provided that such duties are consistent with the accepted standards of the person's profession and the person does not represent himself or herself as a Doctor of Medicine, Physician, Surgeon, Physician and Surgeon, Dr., M.D., or any combination thereof.

E. Nothing in the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act shall prohibit:

1. The service rendered by a physician's unlicensed trained assistant, if such service is rendered under the supervision and control of a licensed physician pursuant to Board rules, provided such rules are not in conflict with the provisions of any other healing arts licensure act or rules promulgated pursuant to such act; or

2. The service of any other person duly licensed or certified by the state to practice the healing arts.

F. Nothing in the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act shall prohibit services rendered by any person not licensed by the Board and practicing any nonallopathic healing practice.

SECTION 5. AMENDATORY Section 2, Chapter 347, O.S.L. 1992, as last amended by Section 3, Chapter 389, O.S.L. 1998 (63 O.S. Supp. 1999, Section 1-116), is amended to read as follows:

Section 1-116. When used in the Oklahoma Health Care Information System Act~~, Section 1-115 et seq. of this title~~:

1. "Board" means the State Board of Health;

2. "Commissioner" means the State Commissioner of Health;

3. "Department" means the State Department of Health;

4. "Health care providers" means a hospital or related institution licensed pursuant to Section 1-702 of ~~Title 63 of the~~

~~Oklahoma Statutes~~ this title, nursing facilities licensed pursuant to Section 1-1903 of ~~Title 63 of the Oklahoma Statutes~~ this title, ~~doctors~~ physicians as ~~defined~~ specified in paragraphs 1 through 7 of subsection A of Section 725.2 of Title 59 of the Oklahoma Statutes, physical therapists, physician assistants, pharmacists, nurses and home health care providers licensed pursuant to the laws of this state;

5. "Third-party payor" means any entity, other than a purchaser, which is responsible for payment either to the purchaser or the health care provider for health care services rendered by the health care provider;

6. "Public-supported provider" means any public or private entity supported in whole or in part by federal or state funds, or any health care provider contracting with the state for providing health care services including, but not limited to, Medicaid;

7. "Identifying information" means a program identifying number assigned for purposes of statistical and data analysis, which protects and maintains patient and physician anonymity. Identifying information shall remain confidential as provided in Section 1-120 of this title;

8. "Information providers" means and includes health care providers, third-party payors or public-supported providers required to report or submit information to the Division of Health Care Information pursuant to the Oklahoma Health Care Information System Act;

9. "Division" means the Division of Health Care Information; and

10. "Health care information system" means the system for receipt, collection, analysis, evaluation, processing, utilization and dissemination of health care data established and maintained by the Division of Health Care Information pursuant to the Oklahoma Health Care Information System Act.

SECTION 6. AMENDATORY 63 O.S. 1991, Section 1-301, is amended to read as follows:

Section 1-301. As used in this article:

~~(a) The term "vital~~ 1. "Vital statistics" means records of birth, death, fetal death and data related thereto~~.~~;

~~(b) The term "system~~ 2. "System of vital statistics" ~~includes~~ means the registration, collection, preservation, amendment and certification of vital statistics records, and activities related thereto, including the tabulation, analysis and publication of statistical data derived from such records~~.~~;

~~(c) The term "filing~~ 3. "Filing" means the presentation of a certificate, report or other record provided for in this article, of a birth, death, fetal death or adoption, for registration by the State Commissioner of Health~~.~~;

~~(d) The term "registration~~ 4. "Registration" means the acceptance by the State Commissioner of Health and the incorporation in his official records of certificates, reports or other records provided for in this article, of births, deaths, fetal deaths or adoptions~~.~~;

~~(e) The term "live~~ 5. "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which, after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached~~.~~;

~~(f) The term "fetal~~ 6. "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception after a period of gestation as prescribed by the State Board of Health. The death is indicated by the fact that, after such expulsion or extraction, the fetus does not breathe or show any other evidence of life such as beating of the heart,

pulsation of the umbilical cord or definite movement of voluntary muscles~~.~~;

~~(g) The term "dead~~ 7. "Dead body" means an individual who is determined to be dead pursuant to the provisions of the Uniform Determination of Death Act~~.~~;

~~(h) The term "final~~ 8. "Final disposition" means the burial, interment, cremation, or other disposition of a dead body or fetus~~.~~;

~~(i) The term "physician~~ 9. "Physician" means a person ~~licensed to practice any of the healing arts under the laws of this state.~~ who is a member of class of persons authorized to use the term "physician" pursuant to Section 725.2 of Title 59 of the Oklahoma Statutes; and

~~(j) The term "institution~~ 10. "Institution" means any establishment, public or private, which provides inpatient medical, surgical or diagnostic care or treatment, or nursing, custodial or domiciliary care, to two or more unrelated individuals, or to which persons are committed by law.

SECTION 7. AMENDATORY 63 O.S. 1991, Section 2552, is amended to read as follows:

Section 2552. In ~~this act~~ the Uniform Duties to Disabled Persons Act:

1. "Disabled condition" means the condition of being unconscious, semiconscious, incoherent or otherwise incapacitated to communicate;

2. "Disabled person" means a person in a disabled condition;

3. "The emergency symbol" means the caduceus inscribed within a six-barred cross used by the American Medical Association to denote emergency information;

4. "Identifying device" means an identifying bracelet, necklace, metal tag or similar device bearing the emergency symbol and the information needed in an emergency; and

5. "Medical practitioner" means a person ~~licensed or authorized to practice medicine, osteopathy and the healing arts~~ who is a member of the class of persons authorized to use the term "physician" pursuant to Section 725.2 of Title 59 of the Oklahoma Statutes.

SECTION 8. 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.

47-2-8902 KSM 6/11/15