

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1569
Page _____ Section _____ Lines _____
Of the printed Bill
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Colby Schwartz _____

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1569

By: Schwartz

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to professions and occupations;
9 amending 59 O.S. 2001, Sections 725.1, 725.2, as
10 amended by Section 5, Chapter 543, O.S.L. 2004 and
11 725.3 (59 O.S. Supp. 2008, Section 725.2), which
12 relate to the designation of branch of healing arts;
13 requiring certain letters or words to be appended to
14 certain names; adding certain designations to be
15 used; requiring certain written notice of certain
16 license; authorizing certain rule-making authority to
17 certain entities; requiring certain identification of
18 type of license in certain advertisements; requiring
19 certain documents to be included in certain
20 advertisements; making certain acts unlawful;
21 specifying certain violations and punishments;
22 providing for certain referral; specifying time
23 frames for certain action; providing for separate
24 offenses; requiring certain licensing boards to refer
certain violations to the Attorney General; and
providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 725.1, is
amended to read as follows:

Section 725.1 A. Every person who writes or prints, or causes
to be written or printed, his or her name (whether or not the word

1 "Doctor", or an abbreviation thereof, is used in connection
2 therewith) ~~in any manner~~ in connection with, ~~such person in any~~
3 ~~manner~~ as engaging in, or ~~in any manner~~ holding himself or herself
4 out as engaging in, any of the branches of the healing art ~~as~~
5 ~~defined in 59 O.S. 1951 § 702, must~~ shall append to his or her name
6 ~~so written or printed~~ the letters or words set forth in Section
7 725.2 of this title if the person is one of the nine classes of
8 persons listed in subsection A of Section 725.2 of this title.

9 B. If the person is not one of the nine classes of persons
10 listed in subsection A of Section 725.2 of this title and is engaged
11 in a branch of the healing art, the person shall write or print, in
12 the same size letters as his or her name, appropriate and generally
13 and easily understood words or letters, which clearly show and
14 indicate the branch of the healing art in which he or she is
15 licensed to practice and is engaged.

16 SECTION 2. AMENDATORY 59 O.S. 2001, Section 725.2, as
17 amended by Section 5, Chapter 543, O.S.L. 2004 (59 O.S. Supp. 2008,
18 Section 725.2), is amended to read as follows:

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

23 1. The letters "D.P.M." or the words podiatrist, chiropodist,
24 doctor of podiatry, doctor of chiropody, doctor of podiatric

1 medicine, or podiatric surgeon by a person licensed to practice
2 podiatry under ~~Chapter 4 of this title~~ the Podiatric Medicine
3 Practice Act;

4 2. The letters "D.C." or the words chiropractor or doctor of
5 chiropractic by a person licensed to practice chiropractic under
6 ~~Chapter 5 of this title~~ the Oklahoma Chiropractic Practice Act;

7 3. The letters "D.D.S." or D.M.D., as appropriate, or the words
8 dentist, doctor of dental surgery, or doctor of dental medicine, as
9 appropriate, by a person licensed to practice dentistry under
10 ~~Chapter 7 of this title~~ the State Dental Act;

11 4. The letters "M.D." or the words surgeon, medical doctor, or
12 doctor of medicine by a person licensed to practice medicine and
13 surgery under ~~Chapter 11 of this title~~ the Oklahoma Allopathic
14 Medical and Surgical Licensure and Supervision Act;

15 5. The letters "O.D." or the words optometrist or doctor of
16 optometry by a person licensed to practice optometry under ~~Chapter~~
17 ~~13~~ Sections 581 through 606 of this title;

18 6. The letters "D.O." or the words surgeon, osteopathic
19 surgeon, osteopath, doctor of osteopathy, or doctor of osteopathic
20 medicine by a person licensed to practice osteopathy under ~~Chapter~~
21 ~~14 of this title~~ the Oklahoma Osteopathic Medicine Act;

22 7. The letters "Ph.D.", "Ed.D.", or "Psy.D." or the words
23 psychologist, therapist, or counselor by a person licensed as a
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1 health service psychologist pursuant to the Psychologists Licensing
2 Act;

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

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

15 B. Unless otherwise specifically provided in a particular
16 section or chapter of the Oklahoma Statutes, the word "doctor" or
17 "doctors" shall mean and include each of the nine classes of persons
18 listed in subsection A of this section. Any other person using the
19 term doctor, or any abbreviation thereof, shall designate the
20 authority under which the title is used or the college or honorary
21 degree that gives rise to use of the title.

22 C. Unless otherwise specifically provided in a particular
23 section or chapter of the Oklahoma Statutes, the word "physician" or
24 "physicians" shall mean and include each of the classes of persons

1 listed in paragraphs 1 through 6 of subsection A of this section.
2 The term "physician" shall not include any person specified in
3 paragraphs 7 through 9 of subsection A of this section unless such
4 person is otherwise authorized to use such designation pursuant to
5 this section.

6 D. Persons in each of the nine classes listed in subsection A
7 of this section shall identify through written notice, which may
8 include the wearing of a name tag, the type of license under which
9 the doctor is practicing, utilizing the designations provided in
10 subsection A of this section. Each applicable licensing board is
11 authorized by rule to determine how its license holders may comply
12 with this disclosure requirement.

13 E. 1. Any advertisement for health care services naming a
14 provider shall:

- 15 a. identify the type of license of the doctor utilizing
16 the letters or words set forth in this section if the
17 person is one of the classes of persons listed in
18 subsection A of this section, or
19 b. utilize appropriate, accepted, and easily understood
20 words or letters, which clearly show and indicate the
21 branch of the healing art in which the person is
22 licensed to practice and is engaged in, if the person
23 is not one of the nine classes of persons listed in
24 subsection A of this section.

1 2. The term "advertisement" includes any printed document
2 including letterhead, video clip, or audio clip created by, for, or
3 at the direction of the provider or providers and advertised for the
4 purpose of promoting the services of the doctor or provider.

5 F. 1. It shall be unlawful for any medical doctor, doctor of
6 osteopathic medicine, doctor of dental surgery, doctor of dental
7 medicine, doctor of optometry, doctor of podiatry, or doctor of
8 chiropractic to make any deceptive or misleading statement, or
9 engage in any deceptive or misleading act, that deceives or misleads
10 the public or a prospective or current patient, regarding the
11 training and the license under which the person is authorized to
12 practice.

13 2. The term "deceptive or misleading statement or act"
14 includes, but is not limited to:

- 15 a. such statement or act in any advertising medium,
- 16 b. making a false statement regarding the education,
17 skills, training, or licensure of a person, or
- 18 c. in any other way describing the profession, skills,
19 training, expertise, education, or licensure of a
20 person in a fashion that causes the public, a
21 potential patient, or current patient to believe that
22 the person is a medical doctor, doctor of osteopathic
23 medicine, doctor of dental surgery, doctor of dental
24 medicine, doctor of optometry, doctor of podiatry, or

1 doctor of chiropractic when that person does not hold
2 such credentials.

3 G. Notwithstanding any other provision of this section, a
4 person licensed in this state to perform speech pathology or
5 audiology services is ~~hereby~~ designated to be a practitioner of the
6 healing art for purposes of making a referral for speech pathology
7 or audiology services pursuant to the provisions of the Individuals
8 with Disabilities Education Act, Amendment of 1997, Public Law 105-
9 17, and Section 504 of the Rehabilitation Act of 1973.

10 SECTION 3. AMENDATORY 59 O.S. 2001, Section 725.3, is
11 amended to read as follows:

12 Section 725.3 A. ~~Any person who shall violate licensed health~~
13 ~~care provider found by the appropriate licensing board or state~~
14 ~~agency to be in violation of the provisions of this act shall be~~
15 ~~guilty of a misdemeanor and upon conviction thereof subsection D of~~
16 ~~Section 725.2 of this title shall be punished by a fine an~~
17 ~~administrative penalty of not less than Twenty-five Dollars (\$25.00)~~
18 ~~nor more than Five Hundred Dollars (\$500.00), or by imprisonment in~~
19 ~~the county jail for not less than five (5) days nor more than thirty~~
20 ~~(30) days, or by both such fine and imprisonment. Any person who is~~
21 ~~not a licensed health care provider and found by the State Board of~~
22 ~~Medical Licensure and Supervision to be in violation of the~~
23 ~~provisions of subsection D of Section 725.2 of this title, shall be~~
24 ~~punished by an administrative penalty of not less than Twenty-five~~

1 Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00). Each
2 day ~~this act~~ subsection D of Section 725.2 of this title is violated
3 shall constitute a separate offense and shall be punishable as such.

4 B. 1. Any licensed health care provider found by the
5 appropriate licensing board or state agency to be in violation of
6 the provisions of Section 725.2 of this title, other than subsection
7 D of Section 725.2 of this title, shall be punished by a fine of not
8 less than Five Hundred Dollars (\$500.00) nor more than Five Thousand
9 Dollars (\$5,000.00).

10 2. a. Any person who is not a licensed health care provider
11 and found by the State Board of Medical Licensure and
12 Supervision to be in violation of the provisions of
13 Section 725.2 of this title, other than subsection D
14 of Section 725.2 of this title, shall be punished by
15 an administrative penalty of not less than Five
16 Hundred Dollars (\$500.00) nor more than Five Thousand
17 Dollars (\$5,000.00).

18 b. However, any appropriate licensing board or state
19 agency with knowledge of any person who is not a
20 licensed health care provider and who is in violation
21 of Section 725.2 of this title, other than subsection
22 D of Section 725.2 of this title, may refer the
23 violation to the State Board of Medical Licensure and
24 Supervision within ten (10) days of notice to the

1 licensing board or state agency. The State Board of
2 Medical Licensure and Supervision shall act upon the
3 violation within sixty (60) days of receipt of notice.
4 Notice of findings and action taken, if any, shall be
5 conveyed to the referring board upon completion of
6 findings so long as the findings are completed within
7 ninety (90) days. If no disciplinary action is taken
8 by the State Board of Medical Licensure and
9 Supervision, then the individual licensing board in
10 the area in which the unlicensed person is practicing
11 medicine shall, upon the finding of a violation, issue
12 an administrative penalty of not less than Five
13 Hundred Dollars (\$500.00) nor more than Five Thousand
14 Dollars (\$5,000.00).

15 3. Each day Section 725.2 of this title is violated shall
16 constitute a separate offense and shall be punishable as such.

17 C. Any licensing board shall be able to refer a case to the
18 Attorney General for investigation and prosecution if:

19 1. A licensing board or state agency makes a finding of gross
20 or repeated violations of Section 725.2 of this title by a licensed
21 health care provider or an unlicensed health care provider in the
22 event the State Board of Medical Licensure and Supervision is unable
23 to resolve the investigation within the time frame provided for in
24 paragraph 2 of subsection B of this section; or

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2. The State Board of Medical Licensure and Supervision makes a finding of gross or repeated violations of Section 725.2 of this title by a person who is not a licensed health care provider.

SECTION 4. This act shall become effective November 1, 2009.

52-1-6857 SAB 02/16/09