

THE HOUSE OF REPRESENTATIVES
Thursday, February 26, 2009

Committee Substitute for
House Bill No. 1569

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1569 - By: SCHWARTZ of the House and CRAIN of the Senate.

An Act relating to professions and occupations; amending 59 O.S. 2001, Sections 725.1, 725.2, as amended by Section 5, Chapter 543, O.S.L. 2004 and 725.3 (59 O.S. Supp. 2008, Section 725.2), which relate to the designation of branch of healing arts; requiring certain letters or words to be appended to certain names; adding certain designations to be used; requiring certain written notice of certain license; authorizing certain rule-making authority to certain entities; requiring certain identification of type of license in certain advertisements; requiring certain documents to be included in certain advertisements; making certain acts unlawful; specifying certain violations and punishments; providing for separate offenses; requiring certain agencies to refer certain violations to the Attorney General; and providing an effective date.

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

1 SECTION 1. AMENDATORY 59 O.S. 2001, Section 725.1, is amended to read
2 as follows:
3 Section 725.1 A. Every person who writes or prints, or causes to be written or
4 printed, his or her name (whether or not the word "Doctor", or an abbreviation thereof, is
5 used in connection therewith) ~~in any manner~~ in connection with, ~~such person in any~~
6 ~~manner~~ as engaging in, or ~~in any manner~~ holding himself or herself out as engaging in,
7 any of the branches of the healing art ~~as defined in 59 O.S. 1951 § 702, must~~ shall

1 append to his or her name ~~so written or printed~~ the letters or words set forth in Section
2 725.2 of this title if the person is one of the nine classes of persons listed in subsection A
3 of Section 725.2 of this title.

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

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

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

15 1. The letters “D.P.M.” or the words podiatrist, chiropodist, doctor of podiatry,
16 doctor of chiropody, or doctor of podiatric medicine by a person licensed to practice
17 podiatry under ~~Chapter 4 of this title~~ the Podiatric Medicine Practice Act;

18 2. The letters “D.C.” or the words chiropractor or doctor of chiropractic by a person
19 licensed to practice chiropractic under ~~Chapter 5 of this title~~ the Oklahoma Chiropractic
20 Practice Act;

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

7 5. The letters “O.D.” or the words optometrist or doctor of optometry by a person
8 licensed to practice optometry under ~~Chapter 13~~ Sections 581 through 606 of this title;

9 6. The letters “D.O.” or the words surgeon, osteopathic physician, osteopathic
10 surgeon, osteopath, doctor of osteopathy, or doctor of osteopathic medicine by a person
11 licensed to practice osteopathy under ~~Chapter 14 of this title~~ the Oklahoma Osteopathic
12 Medicine Act;

13 7. The letters “Ph.D.”, “Ed.D.”, or “Psy.D.” or the words psychologist, therapist, or
14 counselor by a person licensed as a health service psychologist pursuant to the
15 Psychologists Licensing Act;

16 8. The letters “Ph.D.”, “Ed.D.”, or other letters representing a doctoral degree or the
17 words language pathologist, speech pathologist, or speech and language pathologist by a
18 person licensed as a speech and language pathologist pursuant to the Speech-Language
19 Pathology and Audiology Licensing Act and who has earned a doctoral degree from a
20 regionally accredited institution of higher learning in the field of speech and language
21 pathology; and

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

5 B. Unless otherwise specifically provided in a particular section or chapter of the
6 Oklahoma Statutes, the word “doctor” or “doctors” shall mean and include each of the
7 nine classes of persons listed in subsection A and the word “physician” or “physicians”, as
8 provided in subsection C of this section. Any other person using the term doctor, or any
9 abbreviation thereof, shall designate the authority under which the title is used or the
10 college or honorary degree that gives rise to use of the title.

11 C. Unless otherwise specifically provided in a particular section or chapter of the
12 Oklahoma Statutes, the word “physician” or “physicians” shall mean and include each of
13 the classes of persons listed in paragraphs 1 through 6 of subsection A and the word
14 “doctor” or “doctors” as provided in subsection B of this section. The term “physician”
15 shall not include any person specified in paragraphs 7 through 9 of subsection A of this
16 section unless such person is otherwise authorized to use such designation pursuant to
17 this section.

18 D. For purposes of this section, “provider” means and includes:

19 1. Each of the nine classes of persons listed in subsection A of this section and
20 referred to in subsections B and C of this section; and

21 2. Any other person using the term doctor or any abbreviation thereof.

1 E. Persons in each of the nine classes listed in subsection A, and referred to in
2 subsections B and C, of this section shall identify through written notice, which may
3 include the wearing of a name tag, the type of license under which the doctor is
4 practicing, utilizing the designations provided in subsections A, B and C of this section.
5 Each applicable licensing board is authorized by rule to determine how its license holders
6 may comply with this disclosure requirement.

7 F. 1. Any advertisement for health care services naming a provider shall:

- 8 a. identify the type of license of the doctor utilizing the letters or words
9 set forth in this section if the person is one of the classes of persons
10 listed in subsection A of this section, and referred to in subsections B
11 and C of this section, or
12 b. utilize appropriate, accepted, and easily understood words or letters,
13 which clearly show and indicate the branch of the healing art in which
14 the person is licensed to practice and is engaged in, if the person is not
15 one of the nine classes of persons listed in subsection A of this section,
16 or referred to in subsections B and C of this section.

17 2. The term “advertisement” includes any printed document including letterhead,
18 video clip, or audio clip created by, for, or at the direction of the provider or providers and
19 advertised for the purpose of promoting the services of the doctor or provider.

20 F. 1. It shall be unlawful for any medical doctor, doctor of osteopathic medicine,
21 doctor of dental surgery, or doctor of dental medicine to make any deceptive or
22 misleading statement, or engage in any deceptive or misleading act, that deceives or

1 misleads the public or a prospective or current patient, regarding the training and the
2 license under which the person is authorized to practice.

3 2. The term “deceptive or misleading statement or act” includes, but is not limited
4 to:

5 a. such statement or act in any advertising medium,

6 b. making a false statement regarding the education, skills, training, or
7 licensure of a person, or

8 c. in any other way describing the profession, skills, training, expertise,
9 education, or licensure of a person in a fashion that causes the public,
10 a potential patient, or current patient to believe that the person is a
11 medical doctor, doctor of osteopathic medicine, doctor of dental
12 surgery, or doctor of dental medicine when that person does not hold
13 such credentials.

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

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

1 Section 725.3 A. 1. Any person who shall violate licensed health care provider
2 found by the appropriate licensing board or state agency to be in violation of the
3 provisions of this act shall be guilty of a misdemeanor and upon conviction thereof
4 subsection D of Section 725.2 of this title shall be punished by a fine an administrative
5 penalty of not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred
6 Dollars (\$500.00), or by imprisonment in the county jail for not less than five (5) days nor
7 more than thirty (30) days, or by both such fine and imprisonment.

8 2. Any person who is not a licensed health care provider and found by the
9 appropriate licensing board or state agency to be in violation of the provisions of
10 subsection D of Section 725.2 of this title, shall be punished by an administrative penalty
11 of not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars
12 (\$500.00). Each day this act is violated shall constitute a separate offense and shall be
13 punishable as such.

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

18 2. Any person who is not a licensed health care provider and found by the
19 appropriate licensing board or state agency to be in violation of the provisions of this act,
20 other than subsection D of Section 725.2 of this title, shall be punished by an
21 administrative penalty of not less than Five Hundred Dollars (\$500.00) nor more than
22 Five Thousand Dollars (\$5,000.00).

1 3. Each day this act is violated shall constitute a separate offense and shall be
2 punishable as such.

3 C. A case shall be referred to the Attorney General for investigation and
4 prosecution if a licensing board or state agency makes a finding of gross or repeated
5 violations of this act by a licensed health care provider or an unlicensed health care
6 provider.

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

8 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND
9 FINANCIAL SERVICES, dated 02-25-09 - DO PASS, As Amended and Coauthored.