

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1569

6 By: Schwartz

7 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 separate offenses; requiring certain
23 agencies to refer certain violations to the Attorney
24 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
"Doctor", or an abbreviation thereof, is used in connection

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

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

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

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

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

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

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

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

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

17 6. The letters "D.O." or the words surgeon, osteopathic
18 physician, osteopathic surgeon, osteopath, doctor of osteopathy, or
19 doctor of osteopathic medicine by a person licensed to practice
20 osteopathy under ~~Chapter 14 of this title~~ the Oklahoma Osteopathic
21 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 and the word "physician" or "physicians", as
19 provided in subsection C of this section. Any other person using
20 the term doctor, or any abbreviation thereof, shall designate the
21 authority under which the title is used or the college or honorary
22 degree that gives rise to use of the title.

23 C. Unless otherwise specifically provided in a particular
24 section or chapter of the Oklahoma Statutes, the word "physician" or

1 "physicians" shall mean and include each of the classes of persons
2 listed in paragraphs 1 through 6 of subsection A and the word
3 "doctor" or "doctors" as provided in subsection B of this section.

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

8 D. For purposes of this section, "provider" means and includes:

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

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

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

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

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

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

17 F. 1. It shall be unlawful for any medical doctor, doctor of
18 osteopathic medicine, doctor of dental surgery, or doctor of dental
19 medicine to make any deceptive or misleading statement, or engage in
20 any deceptive or misleading act, that deceives or misleads the
21 public or a prospective or current patient, regarding the training
22 and the license under which the person is authorized to practice.

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

- 1 a. such statement or act in any advertising medium,
2 b. making a false statement regarding the education,
3 skills, training, or licensure of a person, or
4 c. in any other way describing the profession, skills,
5 training, expertise, education, or licensure of a
6 person in a fashion that causes the public, a
7 potential patient, or current patient to believe that
8 the person is a medical doctor, doctor of osteopathic
9 medicine, doctor of dental surgery, or doctor of
10 dental medicine when that person does not hold such
11 credentials.

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

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

21 Section 725.3 A. 1. Any ~~person who shall violate~~ licensed
22 health care provider found by the appropriate licensing board or
23 state agency to be in violation of the provisions of ~~this act shall~~
24 ~~be guilty of a misdemeanor and upon conviction thereof~~ subsection D

1 of Section 725.2 of this title shall be punished by a fine an
2 administrative penalty of not less than Twenty-five Dollars (\$25.00)
3 nor more than Five Hundred Dollars (\$500.00), or by imprisonment in
4 the county jail for not less than five (5) days nor more than thirty
5 (30) days, or by both such fine and imprisonment.

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

13 B. 1. Any licensed health care provider found by the
14 appropriate licensing board or state agency to be in violation of
15 the provisions of this act, other than subsection D of Section 725.2
16 of this title, shall be punished by a fine of not less than Five
17 Hundred Dollars (\$500.00) nor more than Five Thousand Dollars
18 (\$5,000.00).

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

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

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

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

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