

State of Arizona
Senate
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 130

SENATE BILL 1204

AN ACT

AMENDING SECTIONS 12-961, 20-115, 20-841.08, 20-1376.04, 20-1406.04, 32-1921
AND 32-4201, ARIZONA REVISED STATUTES; RELATING TO OCCUPATIONAL THERAPY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 12-961, Arizona Revised Statutes, is amended to
3 read:

4 12-961. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Medical care and treatment" includes hospital, medical,
7 psychological, surgical and dental care, ambulance services, prostheses,
8 medical appliances and supplies, pharmaceutical supplies, OCCUPATIONAL
9 THERAPY and physical therapy.

10 2. "Third person" includes any governmental entity, corporation,
11 company, partnership, firm, association, society and a natural person.

12 Sec. 2. Section 20-115, Arizona Revised Statutes, is amended to read:

13 20-115. Department jurisdiction over certain health care
14 providers; exception; examination; disclosure

15 A. Any person or other entity, including a provider sponsored
16 organization that operates under the Medicare-plus-choice program established
17 under the balanced budget act of 1997 (42 United States Code sections
18 1395w-21 through 1395w-28 and title XVIII, part C of the social security act,
19 sections 1851 through 1859), that provides coverage in this state for
20 medical, surgical, chiropractic, naturopathic medicine, OCCUPATIONAL
21 THERAPY, physical therapy, speech pathology, audiology, professional mental
22 health, dental, hospital or optometric expenses, whether the coverage is by
23 direct payment, reimbursement or otherwise, is presumed to be subject to the
24 jurisdiction of the department unless the person or other entity shows that
25 while providing coverage it is subject to the jurisdiction of another agency
26 of this state, any political subdivision of this or any other state or the
27 federal government.

28 B. A person or entity that provides coverage for services identified
29 in subsection A may show that it is subject to the jurisdiction of another
30 agency of this state, any political subdivision of this or any other state
31 or the federal government by providing to the director the appropriate
32 certificate, license or other document that is issued by the other
33 governmental agency and that permits or qualifies it to provide those
34 services.

35 C. Any person or entity that provides coverage in this state for
36 services described in subsection A and is unable to show it is subject to the
37 jurisdiction of another agency of this state, any political subdivision of
38 this or any other state or the federal government:

39 1. Shall submit to an examination by the director to determine the
40 organization and solvency of the person or the entity and to determine
41 whether or not the person or entity is in compliance with the applicable
42 provisions of this title.

43 2. Is subject to all appropriate provisions of this title regarding
44 the conduct of its business.

1 D. Any production agency or administrator which advertises, sells,
2 transacts or administers coverage in this state for services described in
3 subsection A which is provided by any person or entity described in
4 subsection C shall, if that coverage is not fully insured or otherwise fully
5 covered by an admitted life or disability insurer, nonprofit hospital service
6 plan or nonprofit health care plan, SHALL advise any purchaser, prospective
7 purchaser or covered person of the lack of insurance or other coverage.

8 E. Any administrator which advertises or administers coverage in this
9 state for services described in subsection A which is provided by any person
10 or entity described in subsection C shall advise any production agency of the
11 elements of the coverage including the amount of stop-loss insurance in
12 effect.

13 F. This section does not apply to or prohibit a self-insured program
14 operated by a single employer for the benefit of its employees or the
15 employees of a wholly-owned subsidiary.

16 Sec. 3. Section 20-841.08, Arizona Revised Statutes, is amended to
17 read:

18 20-841.08. Prohibiting denial of occupational or physical
19 therapist contract benefits

20 If a hospital service corporation or medical service corporation
21 subscription contract provides coverage for OCCUPATIONAL OR physical therapy
22 services, and provides both an in-network and out-of-network benefit, a
23 service corporation shall not deny a claim for covered OCCUPATIONAL OR
24 physical therapy services obtained out-of-network solely on the basis that
25 a physician did not refer the insured to the OCCUPATIONAL OR physical
26 therapist or prescribe specific OCCUPATIONAL OR physical therapy services. A
27 service corporation may impose coinsurance, copayments, deductibles, dollar
28 caps, limitations on the number of visits, provider network restrictions or
29 other cost containment measures as a condition of coverage of OCCUPATIONAL
30 AND physical therapy services for both in-network and out-of-network
31 benefits.

32 Sec. 4. Section 20-1376.04, Arizona Revised Statutes, is amended to
33 read:

34 20-1376.04. Prohibiting denial of occupational or physical
35 therapist contract benefits

36 If a disability insurance contract provides coverage for OCCUPATIONAL
37 OR physical therapy services, and provides both an in-network and
38 out-of-network benefit, an insurer shall not deny a claim for covered
39 OCCUPATIONAL OR physical therapy services obtained out-of-network solely on
40 the basis that a physician did not refer the insured to the OCCUPATIONAL OR
41 physical therapist or prescribe specific OCCUPATIONAL OR physical therapy
42 services. An insurer may impose coinsurance, copayments, deductibles, dollar
43 caps, limitations on the number of visits, provider network restrictions or
44 other cost containment measures as a condition of coverage of OCCUPATIONAL

1 AND physical therapy services for both in-network and out-of-network
2 benefits.

3 Sec. 5. Section 20-1406.04, Arizona Revised Statutes, is amended to
4 read:

5 20-1406.04. Prohibiting denial of occupational or physical
6 therapist contract benefits

7 If a group disability or blanket disability insurance contract provides
8 coverage for OCCUPATIONAL OR physical therapy services, and provides both an
9 in-network and out-of-network benefit, an insurer shall not deny a claim for
10 covered OCCUPATIONAL OR physical therapy services obtained out-of-network
11 solely on the basis that a physician did not refer the insured to the
12 OCCUPATIONAL OR physical therapist or prescribe specific OCCUPATIONAL OR
13 physical therapy services. An insurer may impose coinsurance, copayments,
14 deductibles, dollar caps, limitations on the number of visits, provider
15 network restrictions or other cost containment measures as a condition of
16 coverage of OCCUPATIONAL AND physical therapy services for both in-network
17 and out-of-network benefits.

18 Sec. 6. Section 32-1921, Arizona Revised Statutes, is amended to read:
19 32-1921. Exempted acts; exemption from registration fees;

20 definition

21 A. This chapter does not prevent:

22 1. The prescription and dispensing of drugs or prescription
23 medications by a registered nurse practitioner pursuant to rules adopted by
24 the board of nursing in consultation with the Arizona medical board, the
25 board of osteopathic examiners in medicine and surgery and the board of
26 pharmacy.

27 2. The sale of nonprescription drugs that are sold at retail in
28 original packages by a person holding a permit under this chapter.

29 3. The sale of drugs at wholesale by a wholesaler or manufacturer that
30 holds the required permit issued by the board to a person who holds the
31 required permit issued under this chapter.

32 4. The following health professionals from dispensing or personally
33 administering drugs or devices to a patient for a condition being treated by
34 the health professional:

35 (a) A doctor of medicine licensed pursuant to chapter 13 of this
36 title.

37 (b) An osteopathic physician licensed pursuant to chapter 17 of this
38 title.

39 (c) A homeopathic physician licensed pursuant to chapter 29 of this
40 title.

41 (d) A podiatrist licensed pursuant to chapter 7 of this title.

42 (e) A dentist licensed pursuant to chapter 11 of this title.

43 (f) A doctor of naturopathic medicine who is authorized to prescribe
44 natural substances, drugs or devices and who is licensed pursuant to chapter
45 14 of this title.

1 (g) An optometrist who is licensed pursuant to chapter 16 of this
2 title and who is certified for topical or oral pharmaceutical agents.

3 5. A veterinarian licensed pursuant to chapter 21 of this title from
4 dispensing or administering drugs to an animal or from dispensing or
5 administering devices to an animal being treated by the veterinarian.

6 6. The use of any pesticide chemical, soil or plant nutrient or other
7 agricultural chemical that is a color additive solely because of its effect
8 in aiding, retarding or otherwise affecting directly or indirectly the growth
9 or other natural physiological process of produce of the soil and thereby
10 affecting its color whether before or after harvest.

11 7. A licensed practical or registered nurse employed by a person
12 licensed pursuant to chapter 7, 11, 13, 14, 17 or 29 of this title from
13 assisting in the delivery of drugs and devices to patients, in accordance
14 with the provisions of chapter 7, 11, 13, 14, 17 or 29 of this title.

15 8. The use of any mechanical device or vending machine in connection
16 with the sale of any nonprescription drug, including proprietary and patent
17 medicine. The board may adopt rules to prescribe conditions under which
18 nonprescription drugs may be dispensed pursuant to this paragraph.

19 B. A person who is licensed pursuant to chapter 7, 11, 13, 14, 17 or
20 29 of this title and who employs a licensed practical or registered nurse who
21 in the course of employment assists in the delivery of drugs and devices is
22 responsible for the dispensing process.

23 C. Pursuant to a prescription order written by a physician for the
24 physician's patients and dispensed by a licensed pharmacist, a physical
25 therapist licensed pursuant to chapter 19 of this title, AN OCCUPATIONAL
26 THERAPIST LICENSED PURSUANT TO CHAPTER 34 OF THIS TITLE OR AN ATHLETIC
27 TRAINER LICENSED PURSUANT TO CHAPTER 41 OF THIS TITLE may procure, store and
28 administer nonscheduled legend and topical anti-inflammatories and topical
29 anesthetics for use in phonophoresis and iontophoresis procedures and within
30 the scope of practice of physical OR OCCUPATIONAL therapy OR ATHLETIC
31 TRAINING.

32 D. A public health facility operated by this state or a county and a
33 qualifying community health center may dispense medication or devices to
34 patients at no cost without providing a written prescription if the public
35 health facility or the qualifying community health center meets all storage,
36 labeling, safety and record keeping rules adopted by the board of pharmacy.

37 E. A person who is licensed pursuant to chapter 7, 11, 13, 14, 17 or
38 29 of this title, who is practicing at a public health facility or a
39 qualifying community health center and who is involved in the dispensing of
40 medication or devices only at a facility or center, whether for a charge or
41 at no cost, shall register to dispense with the appropriate licensing board
42 but is exempt from paying registration fees.

43 F. For the purposes of this section, "qualifying community health
44 center" means a primary care clinic that is recognized as nonprofit under
45 section 501(c)(3) of the United States internal revenue code and whose board

1 of directors includes patients of the center and residents of the center's
2 service area.

3 Sec. 7. Section 32-4201, Arizona Revised Statutes, is amended to read:

4 32-4201. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Board" means the board of massage therapy.

7 2. "Board approved school" means any massage therapy or bodywork
8 therapy school or training program in this state that is offered by a
9 community college or approved by the state board for private postsecondary
10 education or a school or program in another state that meets the criteria
11 established by the board of massage therapy.

12 3. "Bodywork therapy" means massage therapy.

13 4. "Massage therapist" means a person who is licensed under this
14 chapter to engage in the practice of massage therapy.

15 5. "Massage therapy" means the following that are undertaken to
16 increase wellness, relaxation, stress reduction, pain relief and postural
17 improvement or provide general or specific therapeutic benefits:

18 (a) The manual application of compression, stretch, vibration or
19 mobilization of the organs and tissues beneath the dermis, including the
20 components of the musculoskeletal system, peripheral vessels of the
21 circulatory system and fascia, when applied primarily to parts of the body
22 other than the hands, feet and head.

23 (b) The manual application of compression, stretch, vibration or
24 mobilization using the forearms, elbows, knees or feet or handheld mechanical
25 or electrical devices.

26 (c) Any combination of range of motion, directed, assisted or passive
27 movements of the joints.

28 (d) Hydrotherapy, including the therapeutic applications of water,
29 heat, cold, wraps, essential oils, skin brushing, salt glows and similar
30 applications of products to the skin.

31 6. "Practice of massage therapy" means the application of massage
32 therapy to any person for a fee or other consideration. Practice of massage
33 therapy does not include the diagnosis of illness or disease, medical
34 procedures, naturopathic manipulative medicine, osteopathic manipulative
35 medicine, chiropractic adjustive procedures, homeopathic neuromuscular
36 integration, electrical stimulation, ultrasound, prescription of medicines
37 or the use of modalities for which a license to practice medicine,
38 chiropractic, nursing, OCCUPATIONAL THERAPY, ATHLETIC TRAINING, physical
39 therapy, acupuncture or podiatry is required by law.

APPROVED BY THE GOVERNOR APRIL 19, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 19, 2004.

Passed the House April 5, 2004

Passed the Senate March 2, 2004

by the following vote: 58 Ayes,

by the following vote: 27 Ayes,

0 Nays, 2 Not Voting

0 Nays, 3 Not Voting

Jake Flake
Speaker of the House
Norman L. Fyoo
Chief Clerk of the House

Ken Bennett
President of the Senate
Charmine Billington
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this
_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of
_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State
this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1204

SENATE CONCURS IN HOUSE AMENDMENTS
AND FINAL PASSAGE

Passed the Senate April 14, 2004,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

[Signature]
President of the Senate
[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

14th day of April, 2004

at 3:30 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 19 day of

April, 2004,

at 11¹⁵ o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 19 day of April, 2004,

at 4:30 o'clock P. M.

[Signature]
Secretary of State

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