House Engrossed Senate Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 102

SENATE BILL 1295

AN ACT

AMENDING SECTIONS 8-141, 32-2901 AND 32-2911, ARIZONA REVISED STATUTES; RELATING TO STATUTORY TERMINOLOGY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 8-141, Arizona Revised Statutes, is amended to read:

8-141. Definitions; exception

A. In this article, unless the context otherwise requires:

1. "Adoption subsidy" means a grant THAT IS provided to a child with special needs ~~which~~ AND THAT has been applied for through the department.

2. "Agency" means the department or a child welfare agency which is authorized in its license issued by the department to place or care for children in foster care.

3. "Application" means the completion of the department application form with documentation of the child's special needs.

4. "Child" means any person WHO IS under the age of eighteen years, who is legally free for adoption and who otherwise may not be adopted because the person has special needs.

5. "Department" means the department of economic security.

6. "Developmental disability" has the same meaning as provided in section 36-551.

7. "Emotional disturbance" means a condition which impedes the child's ordinary developmental progress as defined by accepted psychiatric or psychological standards and as diagnosed by one or more psychiatrists or psychologists approved by the department.

8. "Emotional ties" ~~include~~ INCLUDES:

(a) Identification of the child as a member of the foster family.

(b) Identification by the foster family of the child as belonging to that family.

(c) The likelihood that the child will not establish significant emotional ties to another family if he is denied permanent placement with the foster family.

9. "High risk of physical or mental disease" means a potentially debilitating condition as defined by accepted standards of the health service profession and as certified by one or more health service providers approved by the department.

10. "High risk of severe emotional disturbance if removed from the care of his foster parents" means the development of significant emotional ties to the foster family as documented by the child's case manager and as diagnosed by a psychiatrist or psychologist approved by the department.

11. "Mental disability" means a lifelong condition which is characterized by impaired intellectual development and impedes the ability to function independently as defined by accepted national standards and as certified by a psychologist, physician or child development specialist approved by the department.

12. "Physical disability" means one of the following conditions:

(a) A chronically debilitating, progressive or fatal disease which requires assistance for the child in activities of daily living.

(b) The requirement of assistance of another person or mechanical device for movement from place to place.

13. "Racial or ethnic factors" means Black, Hispanic, Native American, ~~Oriental~~ ASIAN or other heritage which may prevent a child from being adopted by a family of similar racial or ethnic origin.

14. "Special needs" means one or more of the following conditions which existed before the finalization of adoption:

(a) Physical, mental or developmental disability.

(b) Emotional disturbance.

(c) High risk of physical or mental disease.

(d) High risk of developmental disability.

(e) Age of six or more years at the time of application for an adoption subsidy.

(f) Sibling relationship.

(g) Racial or ethnic factors.

(h) High risk of severe emotional disturbance if removed from the care of his foster parents.

(i) Any combination of the special needs described in this paragraph.

B. The condition described in subsection A, paragraph ~~17~~ 14, subdivision (h), is not a special need unless the foster care relationship existed before the foster adoption placement was made.

Sec. 2. Section 32-2901, Arizona Revised Statutes, is amended to read:

32-2901. Definitions

In this chapter, unless the context otherwise requires:

1. "Acupuncture" means a medical therapy in which ailments are diagnosed and treated by the specific application of needles, heat or physical and electromagnetic impulses or currents to specific anatomic points on the body through any of the following:

(a) The diagnosis and treatment of ailments according to the systematic principles of traditional ~~oriental~~ ASIAN medicine.

(b) The diagnosis and treatment of pain, neuromuscular disorders and other ailments based on the body's biophysics and neuroanatomic structure.

(c) The use of devices to determine the biologic electrical response pattern of acupuncture points as a guide to diagnose bodily ailments and to guide the prescription of homeopathic substances, orthomolecular therapy or pharmaceutical medicine.

2. "Adequate records" means legible medical records that contain at a minimum sufficient information to identify the patient, support the diagnosis, document the treatment, accurately describe the results, indicate advice, cautionary warnings and informed consent discussions with the patient and provide sufficient information for another licensed health care practitioner to assume continuity of the patient's care and to continue or modify the treatment plan.

3. "Approved internship" means that the applicant has completed training in a hospital that was approved for internship, fellowship or

1 residency training by the council on medical education in hospitals of the
2 American medical association, the association of American medical colleges,
3 the royal college of physicians and surgeons of Canada, the American
4 osteopathic association or any board approved similar body in the United
5 States or Canada that approves hospitals for internship, fellowship or
6 residency training.
7 4. "Approved school of medicine" means a school or college that offers
8 a course of study that on successful conclusion results in a degree of doctor
9 of medicine or doctor of osteopathy and that offers a course of study that is
10 approved or accredited by the association of American medical colleges, the
11 association of Canadian medical colleges, the American medical association,
12 the American osteopathic association or any board approved similar body in
13 the United States or Canada that accredits this course of study.
14 5. "Board" means the board of homeopathic medical examiners.
15 6. "Chelation therapy" means an experimental medical therapy to
16 restore cellular homeostasis through the use of intravenous, metal-binding
17 and bioinorganic agents such as ethylene diamine tetraacetic acid. Chelation
18 therapy is not an experimental therapy if it is used to treat heavy metal
19 poisoning.
20 7. "Controlled substance" means a drug or substance or a drug's or
21 substance's immediate precursor that is defined or listed in title 36,
22 chapter 27, article 2.
23 8. "Drug" means a medication or substance that is any of the
24 following:
25 (a) Recognized in the official compendia or for which standards or
26 specifications are prescribed in the official compendia.
27 (b) Intended for use in the diagnosis, cure, mitigation, treatment or
28 prevention of human diseases.
29 (c) Articles other than food that are intended to affect the structure
30 or function of the human body.
31 9. "Homeopathic medication" means a substance of animal, vegetable or
32 mineral origin that is prepared according to homeopathic pharmacology and
33 that is given usually in a homeopathic microdosage.
34 10. "Homeopathic microdosage" means a substance prepared so that it is
35 diluted from ten to the minus one to ten to the minus ten thousandth or
36 higher of its original concentration.
37 11. "Homeopathy" means a system of medicine that employs homeopathic
38 medication in accordance with the principle that a substance that produces
39 symptoms in a healthy person can cure those symptoms in an ill person.
40 12. "Immediate family" means a person's spouse, natural or adopted
41 children, parents and siblings and the natural or adopted children, parents
42 and siblings of the person's spouse.
43 13. "Letter of concern" means an advisory letter to notify a physician
44 that, while there is insufficient evidence to support disciplinary action,

the board believes the physician should modify or eliminate certain practices.

14. "Licensee" means a homeopathic physician licensed under this chapter.

15. "Medical assistant" means an unlicensed person who has completed an educational program approved by the board, who assists in a homeopathic practice under the supervision of a doctor of homeopathy and who performs delegated procedures commensurate with the assistant's education and training but who does not diagnose, interpret, design or modify established treatment programs or violate any statute.

16. "Medical incompetence" means the lack of sufficient medical knowledge or skill by a licensee to a degree that is likely to endanger a patient's health. Medical incompetence includes the range of knowledge expected for basic licensure as a medical or osteopathic physician in any professional regulatory jurisdiction of the United States and additional knowledge of homeopathic treatments and modalities expected of physicians licensed under this chapter.

17. "Minor surgery" means surgical procedures that are conducted by a licensee in an outpatient setting and that involve the removal or repair of lesions or injuries to the skin, mucous membranes and subcutaneous tissues, the use of topical, local or regional anesthetic agents, the treatment by stabilizing or casting nondisplaced and uncomplicated fractures of the extremities and diagnostic endoscopies of the intestinal tract, nasopharynx and vagina. Minor surgery also includes an uncomplicated vasectomy, diagnostic aspiration of joints and subcutaneous cysts, therapeutic injections of muscular trigger points, tendons, ligaments and scars and the subcutaneous implantation of medical therapeutic agents. Minor surgery may also include those procedures prescribed by the board by rule. Minor surgery does not include the use of general, spinal or epidural anesthesia, the opening of body cavities, the repair of blood vessels and nerves or the biopsy by incision, excision or needle aspiration of internal organs, the breast or the prostate.

18. "Neuromuscular integration" means musculoskeletal therapy that uses any combination of manual methods, physical agents and physical medicine procedures and devices to improve physiological function by normalizing body structure.

19. "Nutrition" means the recommendation by a licensee of therapeutic or preventative dietary measures, food factor concentrates, fasting and cleansing regimens and the rebalancing by a licensee of digestive system function to correct diseases of malnutrition, to resolve conditions of metabolic imbalance and to support optimal vitality.

20. "Orthomolecular therapy" means therapy to provide the optimum concentration of substances normally present in the human body such as vitamins, minerals, amino acids and enzymes. Orthomolecular therapy includes the diagnosis of ailments or physiologic stresses that occur as a result of

genetic or environmental influences as well as acquired or inherited allergy and hypersensitivity responses.

21. "Pharmaceutical medicine" means a drug therapy that uses prescription-only and nonprescription pharmaceutical agents as well as medicinal agents of botanical, biological or mineral origin and that is based on current scientific indications or traditional or historical usage indications.

22. "Practice of homeopathic medicine" means the practice of medicine in which a person purports to diagnose, treat or correct real or imagined human diseases, injuries, ailments, infirmities and deformities of a physical or mental origin and includes acupuncture, chelation therapy, homeopathy, minor surgery, neuromuscular integration, nutrition, orthomolecular therapy and pharmaceutical medicine.

23. "Preceptorship" means an extended period of individual study with one or more experienced homeopathic physicians or institutions.

24. "Prescription-only drug" does not include a controlled substance but does include:

(a) A drug that is generally regarded by medical experts to be unsafe if its use and dosage are not supervised by a medical practitioner.

(b) A drug that is approved for use under the supervision of a medical practitioner pursuant to THE federal new drug application law or section 32-1962.

(c) A potentially harmful drug if its labeling does not contain full directions for its use by the patient.

(d) A drug that is required by federal law to bear on its label the following words: "Caution: Federal law prohibits dispensing without prescription."

25. "Professional negligence" means any of the following:

(a) That a licensee administers treatment to a patient in a manner that is contrary to accepted practices and that harms the patient if it can be shown to the board's satisfaction that accepted practices are inherently less hazardous.

(b) That a licensee commits an act of unprofessional conduct or displays an unreasonable lack of professional skill or fidelity.

(c) That a licensee's negligence, carelessness or disregard of established principles or practice results in a patient's injury, unnecessary suffering or death.

26. "Special purpose licensing examination" means an examination developed by the national board of medical examiners on behalf of the federation of state medical boards for use by state licensing boards to test the basic medical competence of physicians who are applying for licensure and who have been in practice in another jurisdiction of the United States and to determine the competence of a physician under investigation by a state licensing board.

Sec. 3. Section 32-2911, Arizona Revised Statutes, is amended to read:

32-2911. Persons and acts not affected by chapter

This chapter does not prevent:

1. The practice of any other method, system or science of healing by a person who is licensed pursuant to the laws of this state if that person is acting within the scope of that license.

2. The practice by homeopathic physicians discharging their duties while members of the armed forces of the United States or other federal agencies.

3. A person FROM administering a lawful domestic or family remedy, health food or health food supplement to that person's immediate family members.

4. A person FROM administering over-the-counter homeopathic remedies in the course of providing medical assistance in an emergency.

5. The practice of any of the healing arts offered by this state's Indian tribes.

6. The practice of religion, treatment by prayer or the laying on of hands as a religious rite or ordinance.

7. Any act competently performed by a physician assistant that is within the scope of that person's duties.

8. A physician licensed in any state, district or territory of the United States from infrequently consulting with a person licensed under this chapter or acting pursuant to an invitation by a legitimate sponsor to visit this state to promote professional education through lectures, clinics or demonstrations if that visiting physician does not open an office, meet with patients or receive calls relating to the practice of homeopathic medicine outside of the sponsoring institution's facilities and programs.

9. The independent practice of acupuncture as a traditional ~~oriental~~ ASIAN healing art.

Sec. 4. Legislative intent

This act replaces the term "oriental" in each of the statutes in which it appears in the Arizona Revised Statutes, except in one case in which the term is part of the name of a national organization. It is the intent of the legislature that agencies, boards, commissions, departments, officers and other administrative units of this state make similar changes in their respective administrative rules.

APPROVED BY THE GOVERNOR APRIL 18, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2007.

Passed the House April 9, 20 07,

by the following vote: 52 Ayes,

4 Nays, 4 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate February 21, 20 07,

by the following vote: 29 Ayes,

1 Nays, 0 Not Voting

President of the Senate

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. 1295

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 12, 2007

by the following vote: 27 Ayes,

1 Nays, 2 Not Voting

Timothy S. Bee
President of the Senate

Charmin Bishop
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

12th day of April, 2007

at 11:41 o'clock a. M.

Jennifer Ybarra
Secretary to the Governor

Approved this 18 day of

April

at 2:15 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 18 day of April, 2007

S.B. 1295

at 3:33 o'clock p. M.

Janice K. Brewer
Secretary of State