Senate Engrossed House Bill

FILED

KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 120

HOUSE BILL 2123

AN ACT

AMENDING SECTION 32-2001, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 19, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-2030; AMENDING SECTION 32-2047, ARIZONA REVISED STATUTES; RELATING TO PHYSICAL THERAPY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 32-2001, Arizona Revised Statutes, is amended to read:

32-2001. Definitions

In this chapter, unless the context otherwise requires:

1. "Assistive personnel" includes physical therapist assistants and physical therapy aides and other assistive personnel who are trained or educated health care providers and who are not physical therapist assistants or physical therapy aides but who perform specific designated tasks related to physical therapy under the supervision of a physical therapist. At the discretion of the supervising physical therapist, and if properly credentialed and not prohibited by any other law, other assistive personnel may be identified by the title specific to their training or education. This paragraph does not apply to personnel assisting other health care professionals licensed pursuant to this title in the performance of delegable treatment responsibilities within their scope of practice.

2. "Board" means the board of physical therapy.

3. "BUSINESS ENTITY" MEANS A BUSINESS ORGANIZATION THAT HAS AN OWNERSHIP THAT INCLUDES ANY PERSONS WHO ARE NOT LICENSED OR CERTIFIED TO PROVIDE PHYSICAL THERAPY SERVICES IN THIS STATE, THAT OFFERS TO THE PUBLIC PROFESSIONAL SERVICES REGULATED BY THE BOARD AND THAT IS ESTABLISHED PURSUANT TO THE LAWS OF ANY STATE OR FOREIGN COUNTRY.

~~3.~~ 4. "General supervision" means that the supervising physical therapist is on call and is readily available via telecommunications when the physical therapist assistant is providing treatment interventions.

~~4.~~ 5. "Interim permit" means a permit issued by the board that allows a person to practice as a physical therapist in this state or to work as a physical therapist assistant for a specific period of time and under conditions prescribed by the board before that person is issued a license or certificate.

~~5.~~ 6. "Manual therapy techniques" means a broad group of passive interventions in which physical therapists use their hands to administer skilled movements designed to modulate pain, increase joint range of motion, reduce or eliminate soft tissue swelling, inflammation, or restriction, induce relaxation, improve contractile and noncontractile tissue extensibility, and improve pulmonary function. These interventions involve a variety of techniques, such as the application of graded forces.

~~6.~~ 7. "On-site supervision" means that the supervising physical therapist is on site and is present in the facility or on the campus where assistive personnel or a holder of an interim permit is performing services, is immediately available to assist the person being supervised in the services being performed and maintains continued involvement in appropriate aspects of each treatment session in which a component of treatment is delegated.

~~7.~~ 8. "Physical therapist" means a person who is licensed pursuant to this chapter.

~~8.~~ 9. "Physical therapist assistant" means a person who meets the requirements of this chapter for certification and who performs physical therapy procedures and related tasks that have been selected and delegated by the supervising physical therapist.

~~9.~~ 10. "Physical therapy" means the care and services provided by or under the direction and supervision of a physical therapist who is licensed pursuant to this chapter.

~~10.~~ 11. "Physical therapy aide" means a person who is trained under the direction of a physical therapist and who performs designated and supervised routine physical therapy tasks.

~~11.~~ 12. "Practice of physical therapy" means:

(a) Examining, evaluating and testing persons who have mechanical, physiological and developmental impairments, functional limitations and disabilities or other health and movement related conditions in order to determine a diagnosis, a prognosis and a plan of therapeutic intervention and to assess the ongoing effects of intervention.

(b) Alleviating impairments and functional limitations by managing, designing, implementing and modifying therapeutic interventions including:

(i) Therapeutic exercise.

(ii) Functional training in self-care and in home, community or work reintegration.

(iii) Manual therapy techniques.

(iv) Therapeutic massage.

(v) Assistive and adaptive orthotic, prosthetic, protective and supportive devices and equipment.

(vi) Pulmonary hygiene.

(vii) Debridement and wound care.

(viii) Physical agents or modalities.

(ix) Mechanical and electrotherapeutic modalities.

(x) Patient related instruction.

(c) Reducing the risk of injury, impairments, functional limitations and disability by means that include promoting and maintaining a person's fitness, health and quality of life.

(d) Engaging in administration, consultation, education and research.

~~12.~~ 13. "Restricted certificate" means a certificate on which the board has placed any restrictions as the result of a disciplinary action.

~~13.~~ 14. "Restricted license" means a license on which the board places restrictions or conditions, or both, as to the scope of practice, place of practice, supervision of practice, duration of licensed status or type or condition of a patient to whom the licensee may provide services.

15. "RESTRICTED REGISTRATION" MEANS A REGISTRATION THE BOARD HAS PLACED ANY RESTRICTIONS ON AS THE RESULT OF DISCIPLINARY ACTION.

Sec. 2. Title 32, chapter 19, article 2, Arizona Revised Statutes, is amended by adding section 32-2030, to read:

32-2030. Business entities; patient records; protocol; exemptions; violation; rules

A. BEGINNING SEPTEMBER 1, 2011, A BUSINESS ENTITY SHALL NOT OFFER PHYSICAL THERAPY SERVICES PURSUANT TO THIS CHAPTER UNLESS:

1. THE BUSINESS ENTITY IS REGISTERED WITH THE BOARD PURSUANT TO THIS SECTION.

2. THE PHYSICAL THERAPY SERVICES ARE CONDUCTED BY A LICENSEE OR CERTIFICATE HOLDER PURSUANT TO THIS CHAPTER.

B. THE BUSINESS ENTITY MUST FILE A REGISTRATION APPLICATION ON A FORM PRESCRIBED BY THE BOARD. THE APPLICATION SHALL INCLUDE:

1. A DESCRIPTION OF THE ENTITY'S SERVICES OFFERED TO THE PUBLIC.

2. THE NAME OF THE MANAGER WHO IS AUTHORIZED AND WHO IS RESPONSIBLE FOR MANAGING THE PHYSICAL THERAPY SERVICES OFFERED AT EACH OFFICE.

3. THE NAMES AND ADDRESSES OF THE OFFICERS AND DIRECTORS OF THE BUSINESS ENTITY.

4. A REGISTRATION FEE PRESCRIBED BY THE BOARD BY RULE.

C. A BUSINESS ENTITY MUST FILE A SEPARATE REGISTRATION APPLICATION AND PAY A FEE FOR EACH BRANCH OFFICE IN THIS STATE.

D. A REGISTRATION EXPIRES ON AUGUST 31 OF ODD NUMBERED YEARS IN ACCORDANCE WITH THE PHYSICAL THERAPIST PROFESSIONAL LICENSING SCHEDULE. A BUSINESS ENTITY THAT WISHES TO RENEW A REGISTRATION MUST SUBMIT AN APPLICATION FOR RENEWAL AS PRESCRIBED BY THE BOARD ON A BIENNIAL BASIS ON A FORM PRESCRIBED BY THE BOARD BEFORE THE EXPIRATION DATE. AN ENTITY THAT FAILS TO RENEW THE REGISTRATION BEFORE THE EXPIRATION DATE IS SUBJECT TO A LATE FEE AS PRESCRIBED BY THE BOARD BY RULE.

E. THE BUSINESS ENTITY MUST NOTIFY THE BOARD IN WRITING WITHIN THIRTY DAYS AFTER ANY CHANGE:

1. IN THE BUSINESS ENTITY'S NAME, ADDRESS OR TELEPHONE NUMBER.

2. IN THE OFFICERS OR DIRECTORS OF THE BUSINESS ENTITY.

3. IN THE NAME OF THE MANAGER WHO IS AUTHORIZED AND WHO IS RESPONSIBLE FOR MANAGING THE PHYSICAL THERAPY SERVICES IN ANY FACILITY.

F. THE BUSINESS ENTITY MUST ESTABLISH AND IMPLEMENT A WRITTEN PROTOCOL FOR THE SECURE STORAGE, TRANSFER AND ACCESS OF THE PHYSICAL THERAPY RECORDS OF THE BUSINESS ENTITY'S PATIENTS. THIS PROTOCOL MUST INCLUDE, AT A MINIMUM, PROCEDURES FOR:

1. NOTIFYING PATIENTS OF THE FUTURE LOCATIONS OF THEIR RECORDS IF THE BUSINESS ENTITY TERMINATES OR SELLS THE PRACTICE.

2. DISPOSING OF UNCLAIMED PHYSICAL THERAPY RECORDS.

3. THE TIMELY RESPONSE TO REQUESTS BY PATIENTS FOR COPIES OF THEIR RECORDS.

G. THE BUSINESS ENTITY MUST NOTIFY THE BOARD WITHIN THIRTY DAYS AFTER THE DISSOLUTION OF ANY REGISTERED BUSINESS ENTITY OR THE CLOSING OR

RELOCATION OF ANY FACILITY AND MUST DISCLOSE TO THE BOARD THE ENTITY'S PROCEDURE BY WHICH ITS PATIENTS MAY OBTAIN THEIR RECORDS.

H. THIS SECTION DOES NOT APPLY TO:

1. A SOLE PROPRIETORSHIP OR PARTNERSHIP THAT CONSISTS EXCLUSIVELY OF PERSONS WHO ARE LICENSED BY A HEALTH PROFESSION REGULATORY BOARD AS DEFINED IN SECTION 32-3201.

2. A FACILITY REGULATED BY THE FEDERAL GOVERNMENT OR A STATE, DISTRICT OR TERRITORY OF THE UNITED STATES.

3. AN ADMINISTRATOR OR EXECUTOR OF THE ESTATE OF A DECEASED PHYSICAL THERAPIST OR A PERSON WHO IS LEGALLY AUTHORIZED TO ACT FOR A PHYSICAL THERAPIST WHO HAS BEEN ADJUDICATED TO BE MENTALLY INCOMPETENT FOR NOT MORE THAN ONE YEAR FROM THE DATE THE BOARD RECEIVES NOTICE OF THE PHYSICAL THERAPIST'S DEATH OR INCAPACITATION.

4. A HEALTH CARE INSTITUTION THAT IS LICENSED PURSUANT TO TITLE 36.

I. A FACILITY THAT OFFERS PHYSICAL THERAPY SERVICES TO THE PUBLIC BY PERSONS LICENSED UNDER THIS CHAPTER MUST BE REGISTERED BY THE BOARD UNLESS THE FACILITY IS ANY OF THE FOLLOWING:

1. OWNED BY A LICENSEE.

2. REGULATED BY THE FEDERAL GOVERNMENT OR A STATE, DISTRICT OR TERRITORY OF THE UNITED STATES.

J. EXCEPT FOR ISSUES RELATING TO INSURANCE CODING AND BILLING THAT REQUIRE THE NAME, SIGNATURE AND LICENSE NUMBER OF THE PHYSICAL THERAPIST PROVIDING TREATMENT, THIS SECTION DOES NOT:

1. AUTHORIZE A LICENSEE IN THE COURSE OF PROVIDING PHYSICAL THERAPY SERVICES FOR AN ENTITY REGISTERED PURSUANT TO THIS SECTION TO DISREGARD OR INTERFERE WITH A POLICY OR PRACTICE ESTABLISHED BY THE ENTITY FOR THE OPERATION AND MANAGEMENT OF THE BUSINESS.

2. AUTHORIZE A BUSINESS ENTITY REGISTERED PURSUANT TO THIS SECTION TO ESTABLISH OR ENFORCE A BUSINESS POLICY OR PRACTICE THAT MAY INTERFERE WITH THE PROFESSIONAL JUDGMENT OF THE LICENSEE IN PROVIDING PHYSICAL THERAPY SERVICES FOR THE BUSINESS ENTITY OR MAY COMPROMISE A LICENSEE'S ABILITY TO COMPLY WITH THIS CHAPTER.

K. THE BOARD SHALL ADOPT RULES THAT PROVIDE A METHOD FOR THE BOARD TO RECEIVE THE ASSISTANCE AND ADVICE OF BUSINESS ENTITIES REGISTERED PURSUANT TO THIS SECTION IN ALL MATTERS RELATING TO THE REGULATION OF BUSINESS ENTITIES.

L. THE BOARD SHALL ADOPT RULES NECESSARY TO ENFORCE THIS CHAPTER IN THE PRACTICE SETTINGS OF ITS LICENSEES, CERTIFICATE HOLDERS AND REGISTRANTS IF THE PRACTICE SETTINGS ARE NOT REGULATED BY THE DEPARTMENT OF HEALTH SERVICES.

Sec. 3. Section 32-2047, Arizona Revised Statutes, is amended to read:

32-2047. <u>Disciplinary actions; penalties</u>

On proof that any grounds prescribed in section 32-2044 have been violated OR THAT ANY REQUIREMENTS IN SECTION 32-2030 HAVE BEEN VIOLATED, the board may take the following disciplinary actions singly or in combination:

1. Issue a decree of censure.

2. Restrict a license, ~~or a~~ certificate OR REGISTRATION. The board may require a licensee, ~~or~~ certificate holder OR REGISTRANT to report regularly to the board on matters related to the grounds for the restricted license or certificate.

3. Suspend a license, ~~or~~ certificate OR REGISTRATION for a period prescribed by the board.

4. Revoke a license, ~~or~~ certificate OR REGISTRATION.

5. Refuse to issue or renew a license, ~~or~~ certificate OR REGISTRATION.

6. Impose a civil penalty of at least two hundred fifty dollars but not more than ten thousand dollars for each violation of this chapter. In addition the board may assess and collect the reasonable costs incurred in a disciplinary hearing when action is taken against a person's license or certificate.

7. Accept a voluntary surrendering of a license, ~~or~~ certificate OR REGISTRATION, if approved by the board.

APPROVED BY THE GOVERNOR APRIL 23, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 26, 2010.

Passed the House March 11, 2010

by the following vote: 52 Ayes,

2 Nays, 5 Not Voting

1 Vacancy

Speaker of the House

Pro Tempore

Cheryl Laube

Chief Clerk of the House

Passed the Senate April 12, 2010

by the following vote: 20 Ayes,

9 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary to the Governor

Approved this _____ _____day of

_____

at _____o'clock _____M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary of State

H.B. 2123

HOUSE CONCURS IN SENATE AMENDMENTS AND FINAL PASSAGE

April 19, 2010,

by the following vote: 51 Ayes,

4 Nays, 5 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

19 day of April, 2010,

at 4:20 o'clock P. M.

Nicole Bendle

Secretary to the Governor

Approved this 23rd day of

April, 2010,

at 2:15 o'clock P. M.

Jan Brewer

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 26th day of April, 2010,

at 12:30 o'clock P. M.

Ken Bennett

Secretary of State

H.B. 2123