House Engrossed Senate Bill

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JANICE K. BREWER
SECRETARY OF STATE

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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)

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

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

12-961. Definitions

In this article, unless the context otherwise requires:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 6. Section 32-1921, Arizona Revised Statutes, is amended to read:

32-1921. Exempted acts; exemption from registration fees; definition

A. This chapter does not prevent:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32-4201. Definitions

In this chapter, unless the context otherwise requires:

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

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

3. "Bodywork therapy" means massage therapy.

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

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

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

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

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

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

6. "Practice of massage therapy" means the application of massage therapy to any person for a fee or other consideration. Practice of massage therapy does not include the diagnosis of illness or disease, medical procedures, naturopathic manipulative medicine, osteopathic manipulative medicine, chiropractic adjustive procedures, homeopathic neuromuscular integration, electrical stimulation, ultrasound, prescription of medicines or the use of modalities for which a license to practice medicine, chiropractic, nursing, OCCUPATIONAL THERAPY, ATHLETIC TRAINING, physical 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.