

SENATE BILL No. 254

AN ACT relating to certain persons licensed to engage in or practice an occupation or profession; concerning the practice of occupational therapy by persons licensed to practice occupational therapy; concerning continuing education license requirements of persons released from military service; concerning persons not engaged in the practice of the healing arts; amending K.S.A. 48-3403, 65-2872 and 65-5402 and repealing the existing sections.

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

Section 1. K.S.A. 65-2872 is hereby amended to read as follows: 65-2872. The practice of the healing arts shall not be construed to include the following persons:

- (a) Persons rendering gratuitous services in the case of an emergency.
- (b) Persons gratuitously administering ordinary household remedies.
- (c) The members of any church practicing their religious tenets provided they shall not be exempt from complying with all public health regulations of the state.
- (d) Students while in actual classroom attendance in an accredited healing arts school who after completing one (1) year's study treat diseases under the supervision of a licensed instructor.
- (e) Students upon the completion of at least three (3) years study in an accredited healing arts school and who, as a part of their academic requirements for a degree, serve a preceptorship not to exceed ~~ninety (90)~~ 90 days under the supervision of a licensed practitioner.
- (f) Persons who massage for the purpose of relaxation, muscle conditioning, or figure improvement, provided no drugs are used and such persons do not hold themselves out to be physicians or healers.
- (g) Persons whose professional services are performed under the supervision or by order of or referral from a practitioner who is licensed under this act.
- (h) Persons in the general fields of psychology, education and social work, dealing with the social, psychological and moral well-being of individuals and/or groups provided they do not use drugs and do not hold themselves out to be the physicians, surgeons, osteopathic physicians or chiropractors.
- (i) Practitioners of the healing arts in the United States army, navy, air force, public health service, and coast guard or other military service when acting in the line of duty in this state.
- (j) Practitioners of the healing arts licensed in another state when and while incidentally called into this state in consultation with practitioners licensed in this state, ~~or residing on the border of a neighboring state, duly licensed under the laws thereof to practice a branch of the healing arts, but who do not open an office or maintain or appoint a place to regularly meet patients or to receive calls within this state.~~
- (k) Dentists practicing their professions, when licensed and practicing in accordance with the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, ~~or~~ and amendments thereto, and any interpretation thereof by the supreme court of this state.
- (l) Optometrists practicing their professions, when licensed and practicing under and in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated, ~~or~~ and amendments thereto, and any interpretation thereof by the supreme court of this state.
- (m) Nurses practicing their profession when licensed and practicing under and in accordance with the provisions of article 11 of chapter 65 of the Kansas Statutes Annotated, ~~or~~ and amendments thereto, and any interpretation thereof by the supreme court of this state.
- (n) Podiatrists practicing their profession, when licensed and practicing under and in accordance with the provisions of article 20 of chapter 65 of the Kansas Statutes Annotated, ~~or~~ and amendments thereto, and any interpretation thereof by the supreme court of this state.
- (o) Every act or practice falling in the field of the healing art, not specifically excepted herein, shall constitute the practice thereof.
- (p) Pharmacists practicing their profession, when licensed and practicing under and in accordance with the provisions of article 16 of chapter 65 of the Kansas Statutes Annotated, ~~or~~ and amendments thereto, and any interpretation thereof by the supreme court of this state.
- (q) A dentist licensed in accordance with the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated who administers general and local anesthetics to facilitate medical procedures conducted by a person licensed to practice medicine and surgery if such dentist is certified

by the board of healing arts under K.S.A. 65-2899, *and amendments thereto*, to administer such general and local anesthetics.

(r) *Practitioners of the healing arts duly licensed under the laws of another state who do not open an office or maintain or appoint a place to regularly meet patients or to receive calls within this state, but who order services which are performed in this state in accordance with rules and regulations of the board. The board shall adopt rules and regulations identifying circumstances in which professional services may be performed in this state based upon an order by a practitioner of the healing arts licensed under the laws of another state.*

Sec. 2. On July 1, 2005, K.S.A. 65-5402 is hereby amended to read as follows: 65-5402. As used in K.S.A. 65-5401 to 65-5417, inclusive, and K.S.A. 65-5418 to 65-5420, inclusive, and amendments thereto:

(a) “Board” means the state board of healing arts.

(b) “Practice of occupational therapy” means the therapeutic use of purposeful and meaningful occupations (goal-directed activities) to evaluate and treat, pursuant to the referral, supervision, order or direction of a physician, a licensed podiatrist, a licensed dentist, *a licensed physician assistant, or an advanced registered nurse practitioner working pursuant to the order or direction of a person licensed to practice medicine and surgery*, a licensed chiropractor, or a licensed optometrist, individuals who have a disease or disorder, impairment, activity limitation or participation restriction that interferes with their ability to function independently in daily life roles and to promote health and wellness. Occupational therapy intervention may include:

(1) Remediation or restoration of performance abilities that are limited due to impairment in biological, physiological, psychological or neurological cognitive processes;

(2) adaptation of tasks, process, or the environment or the teaching of compensatory techniques in order to enhance performance;

(3) disability prevention methods and techniques that facilitate the development or safe application of performance skills; and

(4) health promotion strategies and practices that enhance performance abilities.

(c) “Occupational therapy services” include, but are not limited to:

(1) Evaluating, developing, improving, sustaining, or restoring skills in activities of daily living (ADL), work or productive activities, including instrumental activities of daily living (IADL) and play and leisure activities;

(2) evaluating, developing, remediating, or restoring sensorimotor, cognitive or psychosocial components of performance;

(3) designing, fabricating, applying, or training in the use of assistive technology or orthotic devices and training in the use of prosthetic devices;

(4) adapting environments and processes, including the application of ergonomic principles, to enhance performance and safety in daily life roles;

(5) applying physical agent modalities as an adjunct to or in preparation for engagement in occupations;

(6) evaluating and providing intervention in collaboration with the client, family, caregiver or others;

(7) educating the client, family, caregiver or others in carrying out appropriate nonskilled interventions; and

(8) consulting with groups, programs, organizations or communities to provide population-based services.

(d) “Occupational therapist” means a person licensed to practice occupational therapy as defined in this act.

(e) “Occupational therapy assistant” means a person licensed to assist in the practice of occupational therapy under the supervision of an occupational therapist.

(f) “Person” means any individual, partnership, unincorporated organization or corporation.

(g) “Physician” means a person licensed to practice medicine and surgery.

(h) “Occupational therapy aide,” “occupational therapy tech” or “occupational therapy paraprofessional” means a person who provides sup-

portive services to occupational therapists and occupational therapy assistants in accordance with K.S.A. 65-5419, and amendments thereto.

Sec. 3. K.S.A. 48-3403 is hereby amended to read as follows: 48-3403. (a) A licensee who desires to engage in or practice an occupation or profession in this state after release from military service shall submit, within six months after such release, but not later than two weeks after engaging in or practicing such occupation or profession in this state after such release, the renewal fee required by law for the current license period with a completed renewal application, and thereupon, the licensee shall be deemed to have complied with all requirements of law relating to payment of licensure renewal fees. A licensee who submits the renewal fee and completed renewal application in accordance with this section shall not be charged any late payment fees or penalties. The license of a licensee who fails to renew the license pursuant to this section may be canceled, revoked or suspended in accordance with the applicable law.

(b) A licensee who is required by law to obtain continuing education as a condition prerequisite to renewal of a license shall be ~~given a one-year period of time for fulfillment of such continuing education requirement, such period of time to commence on the date~~ *exempt from such continuing education requirement until completion of the next full licensure period so long as the licensee submits the renewal fee and completed renewal application in accordance with subsection (a).*

Sec. 4. On July 1, 2005, K.S.A. 65-5402 is hereby repealed.

Sec. 5. K.S.A. 48-3403 and 65-2872 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.