

CHAPTER 95

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 05-1016

BY REPRESENTATIVE(S) White, Berens, Coleman, Frangas, Green, Hefley, McFadyen, Merrifield, Riesberg, Stafford, Boyd, Marshall, and McGihon;
also SENATOR(S) Tochtrop, Groff, and Hanna.

AN ACT

CONCERNING AN EXEMPTION FROM THE PROHIBITION AGAINST THE CORPORATE PRACTICE OF PHYSICAL THERAPY FOR PHYSICAL THERAPISTS ENGAGED IN THE PRACTICE OF PHYSICAL THERAPY IN A HEALTH CARE AGENCY.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 12-41-124 (5), Colorado Revised Statutes, is amended to read:

12-41-124. Professional service corporations, limited liability companies, and registered limited liability partnerships for the practice of physical therapy - definitions. (5) (a) Except as provided in this section, corporations shall not practice physical therapy.

(b) EMPLOYMENT OF PHYSICAL THERAPISTS BY A CERTIFIED OR LICENSED HOSPITAL, LICENSED SKILLED NURSING FACILITY, CERTIFIED HOME HEALTH AGENCY, LICENSED HOSPICE, CERTIFIED COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY, CERTIFIED REHABILITATION AGENCY, AUTHORIZED HEALTH MAINTENANCE ORGANIZATION, ACCREDITED EDUCATIONAL ENTITY, OR OTHER ENTITY WHOLLY OWNED AND OPERATED BY ANY GOVERNMENTAL UNIT OR AGENCY SHALL NOT BE CONSIDERED THE CORPORATE PRACTICE OF PHYSICAL THERAPY IF:

(I) THE RELATIONSHIP CREATED BY THE EMPLOYMENT DOES NOT AFFECT THE ABILITY OF THE PHYSICAL THERAPIST TO EXERCISE HIS OR HER INDEPENDENT JUDGMENT IN THE PRACTICE OF THE PROFESSION;

(II) THE PHYSICAL THERAPIST'S INDEPENDENT JUDGMENT IN THE PRACTICE OF THE PROFESSION IS IN FACT UNAFFECTED BY THE RELATIONSHIP;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(III) THE POLICIES OF THE ENTITY EMPLOYING THE PHYSICAL THERAPIST CONTAIN A PROCEDURE BY WHICH COMPLAINTS BY A PHYSICAL THERAPIST ALLEGING A VIOLATION OF THIS PARAGRAPH (b) MAY BE HEARD AND RESOLVED;

(IV) THE PHYSICAL THERAPIST IS NOT REQUIRED TO EXCLUSIVELY REFER ANY PATIENT TO A PARTICULAR PROVIDER OR SUPPLIER; EXCEPT THAT NOTHING IN THIS SUBPARAGRAPH (IV) SHALL INVALIDATE THE POLICY PROVISIONS OF A CONTRACT BETWEEN A PHYSICAL THERAPIST AND HIS OR HER INTERMEDIARY OR THE MANAGED CARE PROVISIONS OF A HEALTH COVERAGE PLAN; AND

(V) THE PHYSICAL THERAPIST IS NOT REQUIRED TO TAKE ANY OTHER ACTION HE OR SHE DETERMINES NOT TO BE IN THE PATIENT'S BEST INTEREST.

(c) THE PROVISIONS OF PARAGRAPH (b) OF THIS SUBSECTION (5) SHALL APPLY TO PROFESSIONAL SERVICE CORPORATIONS, LIMITED LIABILITY COMPANIES, AND REGISTERED LIMITED LIABILITY PARTNERSHIPS FORMED FOR THE PRACTICE OF PHYSICAL THERAPY IN ACCORDANCE WITH THIS SECTION REGARDLESS OF THE DATE OF FORMATION OF THE ENTITY.

(d) A PHYSICAL THERAPIST EMPLOYED BY AN ENTITY DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (5) SHALL BE AN EMPLOYEE OF THE ENTITY FOR PURPOSES OF LIABILITY FOR ALL ACTS, ERRORS, AND OMISSIONS OF THE EMPLOYEE.

SECTION 2. 12-41-124 (6), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

12-41-124. Professional service corporations, limited liability companies, and registered limited liability partnerships for the practice of physical therapy - definitions. (6) As used in this section, unless the context otherwise requires:

(a.5) "CARRIER" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 10-16-102 (8), C.R.S.

(d.3) "HEALTH BENEFIT PLAN" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 10-16-102 (21), C.R.S.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 22, 2005