



**Sub. H.B. 585\***

123rd General Assembly

(As Reported by H. Health, Retirement and Aging)

**Reps. Vesper, Hollister, O'Brien, Clancy, Krupinski, Harris, Barrett, Smith, Allen, Buehrer, Terwilleger, Sykes**

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**BILL SUMMARY**

- Redefines the practice of medicine, surgery, and podiatry to include a person who either in person or through the use of any communication, including oral, written, or electronic communication, practices medicine, surgery, or podiatry in Ohio.
- Modifies the existing exceptions to Ohio's physician licensing law and establishes new exceptions.
- Requires that actions to enjoin any person from engaging in the unauthorized practice of medicine be filed in the Franklin County Common Pleas Court (rather than any court of competent jurisdiction).

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**CONTENT AND OPERATION**

Under current law, with certain exceptions, the practice of medicine and surgery, or any of its branches, is prohibited in Ohio without a certificate from the State Medical Board. The bill provides that the practice of medicine, surgery, and podiatry includes practice through the use of any communication, including oral, written, or electronic communication. In addition, the bill modifies the existing exceptions to Ohio's physician licensing law and establishes new exceptions.

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\* *This analysis was prepared before the report of the House Health, Retirement and Aging Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

**The practice of medicine, surgery, or podiatry**

(sec. 4731.34)

Under current law, a person is regarded as practicing medicine, surgery, or podiatry if the person does either of the following:

(1) Uses certain words, letters, or any other title with the person's name that represents that the person is engaged in the practice of medicine, surgery, or podiatry;

(2) For compensation of any kind, direct or indirect, either (a) examines or diagnoses, or (b) prescribes, advises, recommends, administers, or dispenses a drug or medicine, appliance, mold or case, application, operation, or treatment, of whatever nature, for the cure or relief of a wound, fracture or bodily injury, infirmity, or disease.

The bill redefines the practice of medicine, surgery, and podiatry by modifying these provisions and adding certain activities. With respect to (1), the bill removes "Professor," "D.S.C.," "Pod. D.," and "M.B." from the list of titles and initials and adds "D.O.," "D.P.M.," and "physician."<sup>1</sup> With respect to the activities described in (2), the bill provides that the activities are those performed either in person or through the use of any communication, including oral, written, or electronic communication. The bill also adds to persons regarded as practicing medicine any person who advertises, solicits, or represents in any way that the person is practicing medicine, surgery, or podiatry, in any of its branches.

**Exceptions to Ohio's physician licensing law**

(sec. 4731.36)

Current law excepts certain conduct from Ohio's physician licensing law. The bill modifies the existing exceptions and establishes new exceptions.

**Modifications**

The bill modifies the following exceptions to Ohio's physician licensing law.

**--Consultation with an out-of-state physician.** One of the existing exceptions applies to a physician residing in another state or territory who is a

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<sup>1</sup> As under current law, use of Dr., Doctor, or M.D. will cause a person to be considered to be practicing medicine.

legal practitioner of medicine and surgery in that state when the physician is in consultation with an Ohio physician. Under the bill, an out-of-state physician who is a legal practitioner of medicine in that state is excepted from the Ohio's physician licensing law when providing consultation to an Ohio physician who is responsible for the examination, diagnosis, and treatment of the patient who is the subject of the consultation and one of the following applies:

(1) The out-of-state physician does not provide consultation in this state on a regular or frequent basis.

(2) The out-of-state physician provides the consultation without compensation of any kind, direct or indirect;

(3) The consultation is part of the curriculum of an Ohio medical school or osteopathic medical school or training program.

**--Practitioners in border states.** Current law excepts from Ohio's physician licensing law a physician residing on the border of a neighboring state who is authorized to practice medicine in that state and whose practice extends into Ohio, provided equal rights and privileges are accorded by the neighboring state to the Ohio physicians residing on the border of the neighboring state. The bill limits the exception to physician's in contiguous states and removes the requirement that the state accord equal rights and privileges to Ohio physicians.

**--Commissioned medical officers.** Current law excepts a commissioned medical officer of the United States Army, Navy, or Marine Hospital Service in the discharge of the officer's professional duties. Under the bill, the exception applies to a commissioned medical officer of the U.S. armed forces, or an employee of the U.S. Veterans Administration or U.S. Public Health Service in the discharge of the officer's or employee's professional duties.<sup>2</sup>

**--Dentists.** One of the current exceptions applies to a dentist when engaged exclusively in the practice of dentistry or when administering anesthetics. The bill limits the anesthetics exception to administering anesthetics in the practice of dentistry.

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<sup>2</sup> "Armed forces of the United States" means the Army, Air Force, Navy, Marine Corps, Coast Guard, and any other military service branch that is designated by Congress as part of the armed forces (R.C. 5903.11; not in bill).

### *New exceptions*

The bill establishes the following new exceptions to Ohio's physician licensing law.

**--Follow-up services by an out-of-state physician.** Under the bill, an out-of-state physician who provided services to a patient in another state is excepted when providing follow-up services in Ohio to the patient for the same condition. The follow-up services must be provided not later than one year after the last date services were provided in the other state

**--Peer review.** Under the bill, a board, committee, or corporation engaged in peer review activities is excepted from the physician licensing law when acting within the scope of the functions of the board, committee, or corporation.

**--Independent review organizations.** Under the bill, the conduct of an independent review organization accredited by the Superintendent of Insurance for the purposes of external reviews conducted by health insuring corporations and sickness and accident insurers is excepted from the physician licensing law.

### *Applicability of the exceptions*

The bill specifies that the exceptions for out-of-state physicians who consult or provide follow-up services or who reside in a state that borders Ohio do not apply to a physician whose certificate to practice in Ohio is under suspension or has been revoked by action of the State Medical Board.

### *Injunctions against certain conduct that violates the law governing physicians*

(sec. 4731.341)

Under current law, the Attorney General, State Medical Board, county prosecutor, or any other person who has knowledge of the unauthorized practice of medicine may seek an injunction to stop the unauthorized practice in any court of competent jurisdiction. Under the bill, an injunction must be sought in the Franklin County Common Pleas Court.

### *Intent*

(Section 3)

The bill specifies that the amendments to Revised Code sections made by the bill are not intended to modify either of the following:

(1) The provision of current law that specifies that a health insuring corporation holding a certificate of authority in Ohio is not considered to be practicing medicine;

(2) The Ohio Attorney General opinion that interprets the provision described in (1).<sup>3</sup>

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-17-00	pp. 1624-1625
Reported, H. Health, Retirement & Aging	---	---

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<sup>3</sup> (OAG 99-044.)