

SENATE BILL No. 539

By Committee on Federal and State Affairs

2-23

1 AN ACT concerning health and healthcare; relating to naturopathic
2 doctors and acupuncturists; providing naturopathic doctors and
3 acupuncturists a certificate of authorization for a business entity to
4 provide professional services; amending K.S.A. 17-2710 and K.S.A.
5 2021 Supp. 65-28,134 and repealing the existing sections.
6

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

8 Section 1. K.S.A. 17-2710 is hereby amended to read as follows: 17-
9 2710. A professional corporation may be organized only for the purpose of
10 rendering one type of professional service and service ancillary thereto and
11 shall not engage in any other business, except that a single professional
12 corporation may be organized to and render professional services under
13 any two or more of the types set forth in ~~items (2), (6), (13) and (17) of~~
14 ~~subsection (b) of K.S.A. 17-2707(b)(2), (6), (13) and (17), and~~
15 ~~amendments thereto; under any two or more of the types set forth in items~~
16 ~~(4), (5), (7), (8), (9), (11), (12), (14), (15), (16), (18), (20), (22), (23), (26)~~
17 ~~or (27) of subsection (b) of K.S.A. 17-2707(b)(4), (5), (7), (8), (9), (11),~~
18 ~~(12), (14), (15), (16), (18), (20), (22), (23), (26), (27) and (28), and~~
19 ~~amendments thereto; under any two or more of the types set forth in items~~
20 ~~(8), (9), (18), (24), (25), (26) and (27) of subsection (b) of K.S.A. 17-~~
21 ~~2707(b)(8), (9), (18), (24), (25), (26), (27) and (28), and amendments~~
22 ~~thereto; or under the types set forth in items (16) and (25) of subsection (b)~~
23 ~~of K.S.A. 17-2707(b)(16) and (25), and amendments thereto, but shall be~~
24 ~~deemed to have the following purposes, whether or not authorized by its~~
25 ~~article of incorporation:~~

26 (a) To purchase, receive, lease, or otherwise acquire, own, hold,
27 improve, use and otherwise deal in and with, real or personal property, or
28 any interest therein, wherever situated;

29 (b) to purchase, receive, or otherwise acquire, own, hold, vote, use,
30 employ, sell, mortgage, lend, pledge, or otherwise dispose of, and
31 otherwise use and deal in and with, shares of other interests in, or
32 obligations of, other domestic or foreign corporations, associations,
33 partnerships or individuals, insurance or annuities in any form, or direct or
34 indirect obligations of the United States or of any other government, state,
35 territory, governmental district or municipality or of any instrumentality
36 thereof;

1 (c) to pay pensions and establish pension plans, profit-sharing plans,
2 stock bonus plans, stock option plans and other incentive plans for any or
3 all of its directors, officers and employees;

4 (d) to do all things necessary or incidental to the practice of the
5 profession—~~which~~ *that* the professional corporation is authorized to
6 practice.

7 Sec. 2. K.S.A. 2021 Supp. 65-28,134 is hereby amended to read as
8 follows: 65-28,134. (a) Notwithstanding any other provision of law, a
9 business entity issued a certificate of authorization by the board may
10 employ or contract with one or more licensees of the board for the purpose
11 of providing professional services for which such licensees hold a valid
12 license issued by the board. Nothing in the Kansas healing arts act shall be
13 construed to prohibit a licensee from being employed by or under contract
14 to provide professional services for a business entity granted a certificate
15 of authorization pursuant to this section. Medical care facilities, as defined
16 by K.S.A. 65-425, and amendments thereto, that are in compliance with
17 department of health and environment licensure requirements are exempt
18 from the provisions of this section. Nothing contained herein shall be
19 construed to allow a corporation to practice optometry or dentistry, except
20 as otherwise provided in K.S.A. 17-2706, and amendments thereto.

21 (b) (1) A business entity may apply to the state board of healing arts
22 for a certificate of authorization, on a form and in a manner prescribed by
23 the state board of healing arts, and shall include the following information:

24 (A) The name of the business entity;

25 (B) a list of the names of the owners and officers of the business
26 entity;

27 (C) a description of the apportionment of liability of all partners or
28 owners, if the business entity is organized as a limited partnership or a
29 limited liability company;

30 (D) a list of each responsible official if the business entity is
31 organized as a governmental unit; and

32 (E) a list of all licensed physicians—~~and~~, chiropractors, *naturopathic*
33 *doctors and acupuncturists* to be hired by the business entity.

34 (2) As a condition of certification, a business entity shall be required
35 to provide the state board of healing arts evidence of the following:

36 (A) The address of the business entity;

37 (B) a city or county occupational license; and

38 (C) licensure of all physicians—~~and~~, chiropractors, *naturopathic*
39 *doctors and acupuncturists* to be employed by the business entity.

40 (3) A business entity applying for certification shall remit a fee set by
41 the state board of healing arts through rules and regulations, not to exceed
42 \$1,000.

43 (c) (1) If the state board of healing arts finds that such business entity

1 is in compliance with all of the requirements of this section, the state board
2 of healing arts shall issue a certificate of authorization to such business
3 entity designating the business entity as authorized to employ individuals
4 licensed to practice medicine and surgery~~or~~, chiropractic, *naturopathy or*
5 *acupuncture*, as applicable.

6 (2) A certificate of authorization shall be renewed annually and
7 accompanied by a fee to be fixed by the state board of healing arts. The
8 renewal fee shall be accompanied by a form prescribed by the state board
9 of healing arts.

10 (d) Except as provided in K.S.A. 40-3403, and amendments thereto,
11 no business entity issued a certificate of authorization under this section
12 shall be relieved of responsibility for the conduct or acts of its agents or
13 employees by reason of its compliance with the provisions of this section,
14 nor shall any individual licensed to practice the healing arts be relieved of
15 responsibility and liability for services performed by reason of
16 employment or relationship with such business entity. Nothing in this
17 section shall exempt any business entity from the provisions of any other
18 law applicable to the business entity.

19 (e) A business entity issued a certificate of authorization under this
20 section shall not:

21 (1) In any manner, directly or indirectly, interfere with, diminish,
22 restrict, substitute its judgment for or otherwise exercise control over the
23 independent professional judgment and decisions of its employed licensees
24 as it relates to the care of patients; or

25 (2) prohibit or restrict any employed licensee from discussing with or
26 disclosing to any patient or other individual any medically appropriate
27 healthcare information that such licensee deems appropriate regarding the
28 nature of treatment options, the risks or alternatives thereto, the process
29 used or the decision made by the business entity to approve or deny
30 healthcare services, the availability of alternate therapies, consultations or
31 tests, or from advocating on behalf of the patient.

32 (f) As used in this section:

33 (1) (A) "Business entity" means an employer located in Kansas that
34 utilizes electronic medical records and offers medicine and surgery~~or~~,
35 chiropractic, *naturopathy or acupuncture* services solely for its employees
36 and the dependents of such employees at the employer's work site; an
37 organization that is licensed to sell accident and sickness insurance in the
38 state that is also a mutual or non-profit health carrier that utilizes
39 electronic medical records, or a wholly owned subsidiary of such
40 organization that provides medical services solely for the organization's
41 enrollees and dependents of such enrollees; or an information technology
42 company that designs, utilizes and provides electronic medical records for
43 businesses and worksite medical clinics for employers located in Kansas

1 and offers medicine and surgery—~~or~~, chiropractic, *naturopathy* or
2 *acupuncture* services solely to its employees and the dependents of such
3 employees at the employer's work sites in Kansas.

4 (B) "Business entity" does not include medical care facilities under
5 K.S.A. 65-425, and amendments thereto, corporations licensed under
6 K.S.A. 40-3214, and amendments thereto, and professional corporations
7 organized pursuant to the professional corporation law of Kansas.

8 (2) "Physician" means a person licensed by the state board of healing
9 arts to practice medicine and surgery.

10 (3) "Licensee" means a person licensed by the state board of healing
11 arts to practice medicine and surgery—~~or~~, chiropractic, *naturopathy* or
12 *acupuncture* and whose license is in a full active status and has not been
13 revoked, suspended, limited or placed under probationary conditions.

14 (g) A business entity's certificate of authorization may be revoked,
15 suspended or limited, may be publicly censured or placed under
16 probationary conditions, or an application for a certificate or for
17 reinstatement of a certificate may be denied upon a finding of the
18 existence of any of the following grounds:

19 (1) The business entity has committed fraud or misrepresentation in
20 applying for or securing an original, renewal or reinstated certificate.

21 (2) The business entity has willfully or repeatedly violated this act,
22 the pharmacy act of the state of Kansas or the uniform controlled
23 substances act or any rules and regulations adopted pursuant thereto, or
24 any rules and regulations of the secretary of health and environment that
25 are relevant to the practice of the healing arts.

26 (3) The business entity has had a certificate, or equivalent
27 authorization, to employ licensees to practice the healing arts revoked,
28 suspended or limited, has been censured or has had other disciplinary
29 action taken or has had an application for a certificate or license denied, by
30 the proper licensing authority of another state.

31 (4) The business entity has violated any lawful rule and regulation
32 promulgated by the board.

33 (5) The business entity has failed to report or reveal the knowledge
34 required to be reported or revealed under K.S.A. 65-28,122, and
35 amendments thereto.

36 (6) The business entity has failed to report to the board any adverse
37 action taken against the business entity by another state or licensing
38 jurisdiction, a governmental agency, by a law enforcement agency or a
39 court for acts or conduct similar to acts or conduct that would constitute
40 grounds for disciplinary action under this section.

41 (7) The business entity has engaged in conduct likely to deceive,
42 defraud or harm the public.

43 (8) The business entity has engaged in conduct that violates patient

1 trust and exploits the licensee-patient relationship for corporate gain.

2 (9) The business entity has used any false, fraudulent or deceptive
3 statement in any document connected with the practice of the healing arts,
4 including the intentional falsifying or fraudulent altering of a patient
5 healthcare record.

6 (10) The business entity has failed to furnish to the board, or its
7 investigators or representatives, any information legally requested by the
8 board.

9 (11) The business entity has had, or failed to report to the board, any
10 adverse judgment, award or settlement against the business entity resulting
11 from a medical liability claim related to acts or conduct similar to acts or
12 conduct that would constitute grounds for disciplinary action under this
13 section.

14 (12) The business entity has been convicted of a felony or class A
15 misdemeanor, or substantially similar offense in another jurisdiction,
16 related to the practice of the healing arts.

17 (h) The state board of healing arts shall adopt all rules and regulations
18 as necessary to implement and administer the provisions of this section.

19 ~~(i) For the purposes of determining the impact on the healthcare-~~
20 ~~stabilization fund of requiring business entities to comply with the~~
21 ~~provisions of the healthcare provider insurance availability act, the~~
22 ~~healthcare stabilization fund is hereby directed to conduct such actuarial~~
23 ~~and operational studies as are necessary to determine such impact, and to~~
24 ~~report the findings to the legislature on or before January 1, 2020.~~

25 ~~(j) This section shall be a part of and supplemental to the Kansas~~
26 ~~healing arts act.~~

27 ~~(k) The provisions of this section shall take effect on and after March~~
28 ~~1, 2020.~~

29 Sec. 3. K.S.A. 17-2710 and K.S.A. 2021 Supp. 65-28,134 are hereby
30 repealed.

31 Sec. 4. This act shall take effect and be in force from and after its
32 publication in the statute book.