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Indicates New Matter

COMMITTEE REPORT

March 9, 2010

**S. 1031**

Introduced by Senators Hayes, Reese, O’Dell, Jackson, Rose, Coleman, Nicholson, Ford, Elliott, Bright, Campbell, Massey and Matthews

S. Printed 3/9/10--S.

Read the first time January 12, 2010.

**THE COMMITTEE ON MEDICAL AFFAIRS**

To whom was referred a Bill (S. 1031) to amend Section 40‑45‑110, Code of Laws of South Carolina, 1976, relating, among other things, to licensure of physical therapists and grounds for sanctions, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

Majority favorable. Minority unfavorable.

ROBERT W. HAYES, JR. KEVIN L. BRYANT

For Majority. RALPH ANDERSON

For Minority.

**A** **BILL**

TO AMEND SECTION 40‑45‑110, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING, AMONG OTHER THINGS, TO LICENSURE OF PHYSICAL THERAPISTS AND GROUNDS FOR SANCTIONS AGAINST LICENSEES, SO AS TO REVISE THE PROHIBITION AGAINST A LICENSEE WHO IS INVOLVED IN THE DIVIDING, TRANSFERRING, ASSIGNING, REBATING, OR REFUNDING OF FEES RECEIVED FOR PROFESSIONAL SERVICES BY CERTAIN MEANS BY DELETING THE REFERENCE TO “WAGES”, AS A MEANS OF ENGAGING IN THE PROHIBITED CONDUCT, AND TO FURTHER SPECIFY ARRANGEMENTS THAT MAY EXIST BETWEEN A PHYSICAL THERAPIST AND A PHYSICIAN WHICH MAY NOT BE CONSIDERED CONDUCT SUBJECT TO SANCTIONS BY THE BOARD OF PHYSICAL THERAPY EXAMINERS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 40‑45‑110(A) of the 1976 Code, is amended to read:

“(A) In addition to other grounds provided for in Section 40‑1‑110, the board, after notice and hearing, may restrict or refuse to grant a license to an applicant and may refuse to renew the license of a licensed person, and may suspend, revoke, or otherwise restrict the license of a licensed person who:

(1) requests, receives, participates, or engages directly or indirectly in the dividing, transferring, assigning, rebating, or refunding of fees received for professional services or profits by means of a credit or other valuable consideration including, but not limited to, ~~wages,~~ an unearned commission, discount, or gratuity with a person who referred a patient, or with a relative or business associate of the referring person~~;~~. Notwithstanding any other provision of this section or any regulation promulgated by the board, a person licensed under this chapter, who has a bona fide employment or independent contract with a physician, a physician group, or an entity with which a physician has a legal compensation arrangement, including fair market value wages, compensation, benefits, or rents for services or property provided, must not be deemed to be engaged in conduct that is subject to licensure denial, suspension, revocation, restriction, or any other disciplinary action or penalty under this chapter by virtue of such employment or contract, or by virtue of the provision of physical therapy services pursuant to a referral from the employing or contracting physician as provided for in Section 44-113-30(A)(1).

(2) has treated or undertaken to treat human ailments otherwise than by physical therapy or has practiced physical therapy and failed to refer to a licensed medical doctor or dentist any patient whose medical condition should have been determined at the time of evaluation or treatment to be beyond the scope of practice of a physical therapist;

(3) knowingly aided, assisted, procured, or advised a person to practice physical therapy contrary to this chapter or to regulations promulgated by the board pursuant to this chapter or knowingly performed an act which aids, assists, procures, or advises an unlicensed person to practice physical therapy;

(4) in the absence of a referral from a licensed medical doctor or dentist, provides physical therapy services beyond thirty days after the initial evaluation and/or treatment date without the referral of the patient to a licensed medical doctor or dentist;

(5) changes, or in any way modifies, any specific patient care instructions or protocols established by an appropriate health care provider without prior consultation with and approval by the appropriate health care provider.”

SECTION 2. This act takes effect upon approval by the Governor.

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