

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 2867

By: Wallace

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6 AS INTRODUCED

7 An Act relating to professions and occupations;  
8 amending 59 O.S. 2021, Section 509, which relates to  
9 unprofessional conduct; adding a provision of  
unprofessional conduct; and providing an effective  
date.

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12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 59 O.S. 2021, Section 509, is  
14 amended to read as follows:

15 Section 509. The words "unprofessional conduct" as used in  
16 Sections 481 through 518.1 of this title are hereby declared to  
17 include, but shall not be limited to, the following:

- 18 1. Procuring, aiding or abetting a criminal operation;
- 19 2. The obtaining of any fee or offering to accept any fee,  
20 present or other form of remuneration whatsoever, on the assurance  
21 or promise that a manifestly incurable disease can or will be cured;
- 22 3. Willfully betraying a professional secret to the detriment  
23 of the patient;

1 4. Habitual intemperance or the habitual use of habit-forming  
2 drugs;

3 5. Conviction or confession of, or plea of guilty, nolo  
4 contendere, no contest or Alford plea to a felony or any offense  
5 involving moral turpitude;

6 6. All advertising of medical business in which statements are  
7 made which are grossly untrue or improbable and calculated to  
8 mislead the public;

9 7. Conviction or confession of, or plea of guilty, nolo  
10 contendere, no contest or Alford plea to a crime involving violation  
11 of:

12 a. the antinarcotic or prohibition laws and regulations  
13 of the federal government,

14 b. the laws of this state,

15 c. State Commissioner of Health rules, or

16 d. a determination by a judge or jury;

17 8. Dishonorable or immoral conduct which is likely to deceive,  
18 defraud, or harm the public;

19 9. The commission of any act which is a violation of the  
20 criminal laws of any state when such act is connected with the  
21 physician's practice of medicine. A complaint, indictment or  
22 confession of a criminal violation shall not be necessary for the  
23 enforcement of this provision. Proof of the commission of the act  
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1 while in the practice of medicine or under the guise of the practice  
2 of medicine shall be unprofessional conduct;

3 10. Failure to keep complete and accurate records of purchase  
4 and disposal of controlled drugs or of narcotic drugs;

5 11. The writing of false or fictitious prescriptions for any  
6 drugs or narcotics declared by the laws of this state to be  
7 controlled or narcotic drugs;

8 12. Prescribing or administering a drug or treatment without  
9 sufficient examination and the establishment of a valid physician-  
10 patient relationship and not prescribing in a safe, medically  
11 accepted manner;

12 13. The violation, or attempted violation, direct or indirect,  
13 of any of the provisions of the Oklahoma Allopathic Medical and  
14 Surgical Licensure and Supervision Act, either as a principal,  
15 accessory or accomplice;

16 14. Aiding or abetting, directly or indirectly, the practice of  
17 medicine by any person not duly authorized under the laws of this  
18 state;

19 15. The inability to practice medicine with reasonable skill  
20 and safety to patients by reason of age, illness, drunkenness,  
21 excessive use of drugs, narcotics, chemicals, or any other type of  
22 material or as a result of any mental or physical condition. In  
23 enforcing this section the State Board of Medical Licensure and  
24 Supervision may, upon probable cause, request a physician to submit

1 to a mental or physical examination by physicians designated by it.  
2 If the physician refuses to submit to the examination, the Board  
3 shall issue an order requiring the physician to show cause why the  
4 physician will not submit to the examination and shall schedule a  
5 hearing on the order within thirty (30) days after notice is served  
6 on the physician, exclusive of the day of service. The physician  
7 shall be notified by either personal service or by certified mail  
8 with return receipt requested. At the hearing, the physician and  
9 the physician's attorney are entitled to present any testimony and  
10 other evidence to show why the physician should not be required to  
11 submit to the examination. After a complete hearing, the Board  
12 shall issue an order either requiring the physician to submit to the  
13 examination or withdrawing the request for examination. The medical  
14 license of a physician ordered to submit for examination may be  
15 suspended until the results of the examination are received and  
16 reviewed by the Board;

- 17 16. a. Prescribing, dispensing or administering of controlled  
18 substances or narcotic drugs in excess of the amount  
19 considered good medical practice,  
20 b. Prescribing, dispensing or administering controlled  
21 substances or narcotic drugs without medical need in  
22 accordance with pertinent licensing board standards,  
23 or  
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1 c. Prescribing, dispensing or administering opioid drugs  
2 in excess of the maximum limits authorized in Section  
3 2-309I of Title 63 of the Oklahoma Statutes;

4 17. Engaging in physical conduct with a patient which is sexual  
5 in nature, or in any verbal behavior which is seductive or sexually  
6 demeaning to a patient;

7 18. Failure to maintain an office record for each patient which  
8 accurately reflects the evaluation, treatment, and medical necessity  
9 of treatment of the patient;

10 19. Failure to provide necessary ongoing medical treatment when  
11 a doctor-patient relationship has been established, which  
12 relationship can be severed by either party providing a reasonable  
13 period of time is granted;

14 20. Performance of an abortion as defined by Section 1-730 of  
15 Title 63 of the Oklahoma Statutes, except for an abortion necessary  
16 to prevent the death of the mother or to prevent substantial or  
17 irreversible physical impairment of the mother that substantially  
18 increases the risk of death. The performance of an abortion on the  
19 basis of the mental or emotional health of the mother shall be a  
20 violation of this paragraph, notwithstanding a claim or diagnosis  
21 that the woman may engage in conduct which she intends to result in  
22 her death. The Board shall impose a penalty as provided in Section  
23 509.1 of this title on a licensee who violates this paragraph. The  
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1 penalty shall include, but not be limited to, suspension of the  
2 license for a period of not less than one (1) year; or

3 21. Failure to provide a proper and safe medical facility  
4 setting and qualified assistive personnel for a recognized medical  
5 act, including but not limited to an initial in-person patient  
6 examination, office surgery, diagnostic service or any other medical  
7 procedure or treatment. Adequate medical records to support  
8 diagnosis, procedure, treatment or prescribed medications must be  
9 produced and maintained.

10 22. Failure to administer or order a test or screening of a  
11 disease when a patient requests the test or screening and the test  
12 or screening is covered by insurance or the patient is willing to  
13 pay for the test or screening out-of-pocket.

14 SECTION 2. This act shall become effective November 1, 2023.

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16 59-1-5470 TJ 12/28/22

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