

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 HOUSE BILL 3403

 By: Randleman

7 AS INTRODUCED

8 An Act relating to professions and occupations;
9 amending 59 O.S. 2011, Section 495a.1, as last
10 amended by Section 3, Chapter 492, O.S.L. 2019 (59
11 O.S. Supp. 2019, Section 495a.1), which relates to
12 the Oklahoma Allopathic Medical and Surgical
13 Licensure and Supervision Act; requiring certain
14 licensees to receive education on fetal alcohol
15 syndrome and fetal alcohol effects; amending 59 O.S.
16 2011, Section 567.4, as last amended by Section 1,
17 Chapter 113, O.S.L. 2015 (59 O.S. Supp. 2019, Section
18 567.4), which relates to the Oklahoma Nursing
19 Practice Act; requiring certain licensees to receive
20 education on fetal alcohol syndrome and fetal alcohol
21 effects; amending 59 O.S. 2011, Section 641, as
22 amended by Section 13, Chapter 428, O.S.L. 2019 (59
23 O.S. Supp. 2019, Section 641), which relates to the
24 Oklahoma Osteopathic Medicine Act; requiring certain
 licensees to receive education on fetal alcohol
 syndrome and fetal alcohol effects; and providing an
 effective date.

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

22 SECTION 1. AMENDATORY 59 O.S. 2011, Section 495a.1, as
23 last amended by Section 3, Chapter 492, O.S.L. 2019 (59 O.S. Supp.
24 2019, Section 495a.1), is amended to read as follows:

1 Section 495a.1 A. At regular intervals set by the State Board
2 of Medical Licensure and Supervision, no less than one time per
3 annum, each licensee licensed by the Oklahoma Allopathic Medical and
4 Surgical Licensure and Supervision Act shall demonstrate to the
5 Board the licensee's continuing qualification to practice medicine
6 and surgery. The licensee shall apply for license reregistration on
7 a form or forms provided by the Board, which shall be designed to
8 require the licensee to update or add to the information in the
9 Board's file relating to the licensee and his or her professional
10 activity. It shall also require the licensee to report to the Board
11 the following information:

12 1. Any action taken against the licensee for acts or conduct
13 similar to acts or conduct described in the Oklahoma Allopathic
14 Medical and Surgical Licensure and Supervision Act as grounds for
15 disciplinary action by:

- 16 a. any jurisdiction or authority (United States or
17 foreign) that licenses or authorizes the practice of
18 medicine and surgery,
- 19 b. any peer review body,
- 20 c. any health care institution,
- 21 d. any professional medical society or association,
- 22 e. any law enforcement agency,
- 23 f. any court, or
- 24 g. any governmental agency;

1 2. Any adverse judgment, settlement, or award against the
2 licensee arising from a professional liability claim;

3 3. The licensee's voluntary surrender of or voluntary
4 limitation on any license or authorization to practice medicine and
5 surgery in any jurisdiction, including military, public health and
6 foreign;

7 4. Any denial to the licensee of a license or authorization to
8 practice medicine and surgery by any jurisdiction, including
9 military, public health or foreign;

10 5. The licensee's voluntary resignation from the medical staff
11 of any health care institution or voluntary limitation of the
12 licensee's staff privileges at such an institution if that action
13 occurred while the licensee was under formal or informal
14 investigation by the institution or a committee thereof for any
15 reason related to alleged medical incompetence, unprofessional
16 conduct, or mental or physical impairment;

17 6. The licensee's voluntary resignation or withdrawal from a
18 national, state, or county medical society, association, or
19 organization if that action occurred while the licensee was under
20 formal or informal investigation or review by that body for any
21 reason related to possible medical incompetence, unprofessional or
22 unethical conduct, or mental or physical impairment;

23 7. Whether the licensee has abused or has been addicted to or
24 treated for addiction to alcohol or any chemical substance during

1 the previous registration period, unless such person is in a
2 rehabilitation program approved by the Board;

3 8. Whether the licensee has had any physical injury or disease
4 or mental illness during the previous registration period that
5 affected or interrupted his or her practice of medicine and surgery;
6 and

7 9. The licensee's completion of continuing medical education or
8 other forms of professional maintenance or evaluation, including
9 specialty board certification or recertification, during the
10 previous registration period.

11 B. The Board may require continuing medical education for
12 license reregistration and require documentation of that education.
13 The Board shall promulgate rules on the specific requirements of the
14 amount of continuing medical education needed for reregistration.
15 Failure to meet the requirements in the allotted time may result in
16 the licensee being required to pay a nondisciplinary fine by the
17 Board secretary of up to but not more than One Thousand Dollars
18 (\$1,000.00).

19 C. The Board shall require that the licensee receive not less
20 than one (1) hour of education in pain management or one (1) hour of
21 education in opioid use or addiction each year preceding an
22 application for renewal of a license, unless the licensee has
23 demonstrated to the satisfaction of the Board that the licensee does
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1 not currently hold a valid federal Drug Enforcement Administration
2 registration number.

3 D. The Board shall require by rule that every three (3) years
4 family practitioners, pediatricians, obstetricians and
5 gynecologists, and other licensees who have primary responsibility
6 for diagnosing and treating fetal alcohol syndrome in pregnant women
7 or children, receive education on the subject of fetal alcohol
8 syndrome and fetal alcohol effects, including how to:

- 9 1. Screen pregnant women for alcohol abuse;
- 10 2. Identify affected children; and
- 11 3. Provide referral information on needed services.

12 E. The licensee shall sign and attest to the veracity of the
13 application form for license reregistration. Failure to report
14 fully and correctly shall be grounds for disciplinary action by the
15 Board.

16 ~~E.~~ F. The Board shall establish a system for reviewing
17 reregistration forms. The Board may initiate investigations and
18 disciplinary proceedings based on information submitted by licensees
19 for license reregistration.

20 ~~F.~~ G. Upon a finding by the Board that the licensee is fit to
21 continue to practice medicine and surgery in this state, the Board
22 shall issue to the licensee a license to practice medicine and
23 surgery during the next registration period.

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1 SECTION 2. AMENDATORY 59 O.S. 2011, Section 567.4, as
2 last amended by Section 1, Chapter 113, O.S.L. 2015 (59 O.S. Supp.
3 2019, Section 567.4), is amended to read as follows:

4 Section 567.4 A. The Oklahoma Board of Nursing is hereby
5 established in the State of Oklahoma. The Board shall consist of
6 eleven (11) members who shall be citizens of the United States of
7 America, and residents of Oklahoma, for at least the previous three
8 (3) years. Six of the members shall be Registered Nurses, in good
9 standing under the provisions of the Oklahoma Nursing Practice Act,
10 currently engaged in the practice of nursing as a Registered Nurse
11 and shall have had no less than five (5) years of experience as a
12 Registered Nurse. At least two of the Registered Nurses shall be
13 from the field of nursing education, actively associated with a
14 recognized school of nursing in Oklahoma, and who hold an
15 organizational role of administration/management and who are
16 accountable for strategic, operational and/or performance outcomes.
17 At least two of the Registered Nurses who hold an organizational
18 role of administration/management and who are accountable for
19 strategic, operational and/or performance outcomes shall represent
20 nursing service. At least one of the Registered Nurses shall be
21 currently engaged in the practice of nursing as an Advanced Practice
22 Registered Nurse. Three of the members shall be Licensed Practical
23 Nurses in good standing under the provisions of the Oklahoma Nursing
24 Practice Act and currently engaged in the practice of practical

1 nursing as a Licensed Practical Nurse and shall have had no less
2 than five (5) years of experience as a Licensed Practical Nurse.
3 One of the licensed nurses must be employed in the field of long-
4 term care. One of the licensed nurses shall be employed in the area
5 of acute care. Two members shall represent the public and shall be
6 eligible voters of this state, knowledgeable in consumer health
7 concerns, and shall neither be nor ever have been associated with
8 the provision of health care, nor be enrolled in any health-related
9 educational program. The public members shall be appointed by the
10 Governor to serve coterminously with the Governor. At least one
11 Registered Nurse Board member, one Licensed Practical Nurse Board
12 member and one public Board member shall be appointed from a county
13 with a population of less than forty thousand (40,000).

14 B. For the purpose of nominating, appointing or reappointing
15 members to the Board, this state shall be divided into eight
16 geographical districts, consisting of counties within the districts
17 as follows:

18 District No. 1 Cimarron, Texas, Beaver, Harper, Woods, Alfalfa,
19 Grant, Kay, Ellis, Woodward, Major, Garfield,
20 Noble, Dewey, Blaine, Kingfisher and Logan;

21 District No. 2 Roger Mills, Custer, Beckham, Washita, Caddo,
22 Greer, Kiowa, Harmon, Jackson, Comanche, Tillman
23 and Cotton;

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1 District No. 3 Canadian, Grady, McClain, Garvin, Stephens,
2 Murray, Jefferson, Carter and Love;

3 District No. 4 Oklahoma;

4 District No. 5 Lincoln, Okfuskee, Cleveland, Pottawatomie,
5 Seminole, Hughes, Pontotoc, Coal, Johnston,
6 Marshall and Bryan;

7 District No. 6 Creek and Tulsa;

8 District No. 7 Osage, Washington, Nowata, Craig, Ottawa,
9 Pawnee, Payne, Rogers, Mayes and Delaware; and

10 District No. 8 Wagoner, Cherokee, Adair, Okmulgee, Muskogee,
11 Sequoyah, McIntosh, Haskell, Leflore, Pittsburg,
12 Latimer, Atoka, Pushmataha, McCurtain and
13 Choctaw.

14 Not more than one Registered Nurse and one Licensed Practical
15 Nurse and one public member shall be appointed from any one
16 geographical district.

17 C. The Governor shall appoint the Registered Nurse Board
18 members from a list of names submitted by the Oklahoma Nurses
19 Association and Oklahoma chapters of nationally recognized
20 Registered Nurse organizations. The Governor shall appoint the
21 Licensed Practical Nurse Board members from a list of names
22 submitted by the Oklahoma chapters of nationally recognized nursing
23 organizations. Individuals who are members of the Oklahoma Board of
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1 Nursing prior to September 1, 1991, shall be allowed to fulfill
2 their terms and be eligible for reappointment.

3 D. The Registered Nurse and Licensed Practical Nurse members
4 shall be appointed for terms of five (5) years. Upon the death,
5 resignation, or removal of any member, a list from the
6 aforementioned organizations shall be submitted to the Governor who
7 shall appoint a member to fill the vacancy.

8 1. In addition to the grounds for removal by the Governor of
9 members appointed to the Board provided in Section 2 of Title 74 of
10 the Oklahoma Statutes, it is a ground for removal if a member:

- 11 a. does not have at the time of appointment the
12 qualifications required by subsection A of this
13 section,
- 14 b. is not employed in nursing for a period of twelve (12)
15 consecutive months during the term for which the
16 member was appointed,
- 17 c. is absent from more than half of the regularly
18 scheduled Board meetings that the member is eligible
19 to attend during a calendar year, unless the absence
20 is excused by a majority vote of the Board, or
- 21 d. cannot discharge the duties as a Board member for a
22 substantial portion of the term for which the member
23 is appointed because of illness or disability.

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1 2. The validity of an action of the Board is not affected by
2 the fact that it is taken when a ground for removal of a Board
3 member exists.

4 3. If the president of the Board has knowledge that a potential
5 ground for removal exists, the president shall then notify the
6 Governor that a potential ground for removal exists.

7 E. A quorum shall be a majority of the Board which must include
8 at least three Registered Nurses and one Licensed Practical Nurse.

9 F. The members of the Board shall annually elect from their
10 number a president, vice-president and a secretary who shall also be
11 the treasurer, and other such officers as necessary to conduct the
12 business of the Board. It shall hold six regular business meetings
13 during each calendar year. Special meetings may be called by the
14 president or secretary with five (5) days' notice to each member of
15 the Board. The Board shall have a seal; it shall make and adopt all
16 necessary rules not inconsistent with the laws of this state, the
17 United States, or with the Oklahoma Nursing Practice Act; and it
18 shall perform the duties and transact the business required under
19 the provisions of the act. The Board shall cause to be kept a
20 record of all meetings of the Board and give notice of all meetings
21 in accordance with the Administrative Procedures Act and the Open
22 Meeting Act. A list of all persons duly licensed and qualified
23 under this act shall be maintained by the Board. Each member of the
24 Board shall receive, in addition to actual and necessary travel

1 expenses as provided in the State Travel Reimbursement Act,
2 compensation of One Hundred Dollars (\$100.00) for each regular
3 scheduled monthly meeting attended, not to exceed more than six
4 meetings per year. All monies received by the Board shall be held
5 by the treasurer of the Board for meeting the expenses of the Board
6 and for the promotion of nursing education, to employ an attorney to
7 assist the Board and other state and county officials in carrying
8 out the provisions of the Oklahoma Nursing Practice Act, and such
9 other purposes which the Board may determine, and shall be disbursed
10 as directed by the Board. The Board is authorized to adopt and
11 revise rules, not inconsistent with the provisions of the Oklahoma
12 Nursing Practice Act, as may be necessary to enable it to carry into
13 effect the provisions of the act, including rules establishing fees,
14 charges and reimbursement costs. The Board shall appoint and employ
15 a qualified person, who shall be a Registered Nurse to serve as
16 Executive Director, and shall fix the compensation, notwithstanding
17 any other provision of law including Section 3601.2 of Title 74 of
18 the Oklahoma Statutes, in an amount not in excess of the maximum
19 salary proposed for the Oklahoma Board of Nursing and set forth in
20 the most recent Compensation Report prepared by or for the Office of
21 Management and Enterprise Services, require a satisfactory bond, and
22 define the duties of the Executive Director to include:

- 23 1. The authority and responsibility for the operations and
24 administration of the agency and such additional powers and duties

1 as prescribed by the Board. As chief executive of the Board, the
2 Executive Director shall manage all aspects of the agency, including
3 personnel, financial and other resources, in support of the Oklahoma
4 Nursing Practice Act, its rules and policies, and the Board's
5 mission and strategic plan;

6 2. The authority to accept orders as set forth in paragraph 3
7 of this subsection on behalf of the Board and where ratification by
8 the Board is not required. The Executive Director shall report
9 summaries of dispositions to the Board at its regular meetings;

10 3. a. Orders issued under Section ~~2~~ 567.8a of this ~~act~~
11 title,

12 b. Agreed disciplinary orders requiring an applicant or
13 licensee to enter and comply with the Peer Assistance
14 Program,

15 c. Agreed disciplinary orders for the reinstatement or
16 endorsement of a license/certificate/recognition when
17 the applicant has practiced without an active Oklahoma
18 license/certificate/recognition, and

19 d. Agreed disciplinary orders for the voluntary surrender
20 of a license/certification/recognition.

21 G. The Board shall require by rule that every three (3) years
22 persons licensed pursuant to the Oklahoma Nursing Practice Act who
23 have primary responsibility for treating fetal alcohol syndrome in
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1 pregnant women or children receive education on the subject of fetal
2 alcohol syndrome and fetal alcohol effects, including how to:

- 3 1. Screen pregnant women for alcohol abuse;
- 4 2. Identify affected children; and
- 5 3. Provide referral information on needed services.

6 SECTION 3. AMENDATORY 59 O.S. 2011, Section 641, as
7 amended by Section 13, Chapter 428, O.S.L. 2019 (59 O.S. Supp. 2019,
8 Section 641), is amended to read as follows:

9 Section 641. A. All persons legally licensed to practice
10 osteopathic medicine in this state, on or before the first day of
11 July of each year, shall apply to the secretary-treasurer of the
12 Board, on forms furnished thereby, for a renewal certificate of
13 registration entitling such licensee to practice osteopathic
14 medicine and surgery in Oklahoma during the next ensuing fiscal
15 year.

16 B. Each application shall be accompanied by a renewal fee in an
17 amount sufficient to cover the cost and expense incurred by the
18 State Board of Osteopathic Examiners, for a renewal of the person's
19 certificate to practice osteopathic medicine.

20 C. 1. In addition to the payment of the annual renewal fee
21 each licensee applying for a renewal of the certificate shall
22 furnish to the State Board of Osteopathic Examiners proof that the
23 person has attended at least two (2) days of the annual educational
24 program conducted by the Oklahoma Osteopathic Association, or its

1 equivalent, as determined by the Board, in the fiscal year preceding
2 the application for a renewal; provided, the Board may excuse the
3 failure of the licensee to attend the educational program in the
4 case of illness or other unavoidable casualty rendering it
5 impossible for the licensee to have attended the educational program
6 or its equivalent.

7 2. The Board shall require that the licensee receive not less
8 than one (1) hour of education in pain management or one (1) hour of
9 education in opioid use or addiction each year preceding an
10 application for renewal of a license, unless the licensee has
11 demonstrated to the satisfaction of the Board that the licensee does
12 not currently hold a valid federal Drug Enforcement Administration
13 registration number. Such education may be held at the annual
14 educational program referenced in paragraph 1 of this subsection.

15 3. The Board shall require by rule that every three (3) years
16 family practitioners, pediatricians, obstetricians and
17 gynecologists, and other licensees who have primary responsibility
18 for diagnosing and treating fetal alcohol syndrome in pregnant women
19 or children, receive education on the subject of fetal alcohol
20 syndrome and fetal alcohol effects, including how to:

- 21 a. screen pregnant women for alcohol abuse,
- 22 b. identify affected children, and
- 23 c. provide referral information on needed services.

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1 D. The secretary of the State Board of Osteopathic Examiners
2 shall send a written notice to every person holding a legal
3 certificate to practice osteopathic medicine in this state, at least
4 thirty (30) days prior to the first day of July each year, directed
5 to the last-known address of the licensee, notifying the licensee
6 that it will be necessary for the licensee to pay the renewal
7 license fee as herein provided, and proper forms shall accompany the
8 notice upon which the licensee shall make application for renewal of
9 the certificate.

10 SECTION 4. This act shall become effective November 1, 2020.

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12 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 02/19/2020 -
13 DO PASS.

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