

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 55th Legislature (2016)

4 ENGROSSED SENATE
5 BILL NO. 1148

 By: Crain of the Senate

 and

 Ritze of the House

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9 An Act relating to the Oklahoma Allopathic Medical
10 and Surgical Licensure and Supervision Act; amending
11 59 O.S. 2011, Section 492, which relates to the
12 practice of medicine and surgery; amending 59 O.S.
13 2011, Section 622, as amended by Section 1, Chapter
 83, O.S.L. 2014 (59 O.S. Supp. 2015, Section 622),
14 which relates to physician licensure; prohibiting
15 certain construction; providing definitions; and
16 providing an effective date.

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

18 SECTION 1. AMENDATORY 59 O.S. 2011, Section 492, is
19 amended to read as follows:

20 Section 492. A. Every person shall be regarded as practicing
21 allopathic medicine within the meaning and provisions of this act,
22 who shall append to his or her name the letters "M.D.", "Physician"
23 or any other title, letters or designation which represent that such
24 person is a physician, or who shall for a fee or any form of
 compensation diagnose and/or treat disease, injury or deformity of

1 persons in this state by any allopathic legend drugs, surgery,
2 manual, or mechanical treatment unless otherwise authorized by law.

3 B. A hospital or related institution as such terms are defined
4 in Section 1-701 of Title 63 of the Oklahoma Statutes, which has the
5 principal purpose or function of providing hospital or medical care,
6 including but not limited to any corporation, association, trust, or
7 other organization organized and operated for such purpose, may
8 employ one or more persons who are duly licensed to practice
9 medicine in this state without being regarded as itself practicing
10 medicine within the meaning and provisions of this section. The
11 employment by the hospital or related institution of any person who
12 is duly licensed to practice medicine in this state shall not, in
13 and of itself, be considered as an act of unprofessional conduct by
14 the person so employed. Nothing provided herein shall eliminate,
15 limit, or restrict the liability for any act or failure to act of
16 any hospital, any hospital's employees, or persons duly licensed to
17 practice medicine.

18 C. The definition of the practice of medicine and surgery shall
19 include, but is not limited to:

20 1. Advertising, holding out to the public, or representing in
21 any manner that one is authorized to practice medicine and surgery
22 in this state;

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1 2. Any offer or attempt to prescribe, order, give, or
2 administer any drug or medicine and surgery for the use of any other
3 person, except as otherwise authorized by law;

4 3. a. ~~Any~~ any offer or attempt, except as otherwise
5 authorized by law, to prevent, diagnose, correct, or
6 treat in any manner or by any means, methods, devices,
7 or instrumentalities except for manual manipulation
8 any disease, illness, pain, wound, fracture,
9 infirmary, defect, or abnormal physical or mental
10 condition of any person, including the management of
11 pregnancy and parturition, except as otherwise
12 authorized by law~~.,~~

13 b. ~~Except~~ except as provided in subsection D of this
14 section, performance by a person within or outside of
15 this state, through an ongoing regular arrangement, of
16 diagnostic or treatment services, including but not
17 limited to, stroke prevention and treatment, through
18 electronic communications for any patient whose
19 condition is being diagnosed or treated within this
20 state by a physician duly licensed and practicing in
21 this state. A person who performs any of the
22 functions covered by this subparagraph submits himself
23 or herself to the jurisdiction of the courts of this
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1 state for the purposes of any cause of action
2 resulting from the functions performed~~-, and~~

3 c. ~~Nothing~~ nothing in the Oklahoma Allopathic Medical and
4 Surgical Licensure and Supervision Act shall be
5 construed to affect or give jurisdiction to the Board
6 over any person other than medical doctors or persons
7 holding themselves out as medical doctors;

8 4. Any offer or attempt to perform any surgical operation upon
9 any person, except as otherwise authorized by law; and

10 5. The use of the title Doctor of Medicine, Physician, Surgeon,
11 Physician and Surgeon, Dr., M.D. or any combination thereof in the
12 conduct of any occupation or profession pertaining to the
13 prevention, diagnosis, or treatment of human disease or condition
14 unless, where appropriate, such a designation additionally contains
15 the description of another branch of the healing arts for which one
16 holds a valid license in this state.

17 D. The practice of medicine and surgery, as defined in this
18 section, shall not include:

19 1. A student while engaged in training in a medical school
20 approved by the Board or while engaged in graduate medical training
21 under the supervision of the medical staff of a hospital or other
22 health care facility approved by the state medical board for such
23 training, except that a student engaged in graduate medical training
24 shall hold a license issued by the Board for such training;

1 2. Any person who provides medical treatment in cases of
2 emergency where no fee or other consideration is contemplated,
3 charged or received;

4 3. A commissioned medical officer of the armed forces of the
5 United States or medical officer of the United States Public Health
6 Service or the Department of Veterans Affairs of the United States
7 in the discharge of official duties and/or within federally
8 controlled facilities; and provided that such person shall be fully
9 licensed to practice medicine and surgery in one or more
10 jurisdictions of the United States; provided further that such
11 person who holds a medical license in this state shall be subject to
12 the provisions of the Oklahoma Allopathic Medical and Surgical
13 Licensure and Supervision Act;

14 4. Any person licensed under any other act when properly
15 practicing in the healing art for which that person is duly
16 licensed;

17 5. The practice of those who endeavor to prevent or cure
18 disease or suffering by spiritual means or prayer;

19 6. Any person administering a domestic or family remedy to a
20 member of such person's own family;

21 7. Any person licensed to practice medicine and surgery in
22 another state or territory of the United States who renders
23 emergency medical treatment or briefly provides critical medical
24 service at the specific lawful direction of a medical institution or

1 federal agency that assumes full responsibility for that treatment
2 or service and is approved by the Board;

3 8. Any person who is licensed to practice medicine and surgery
4 in another state or territory of the United States whose sole
5 purpose and activity is limited to brief actual consultation with a
6 specific physician who is licensed to practice medicine and surgery
7 by the Board, other than a person with a special or restricted
8 license; or

9 9. The practice of any other person as licensed by appropriate
10 agencies of this state, provided that such duties are consistent
11 with the accepted standards of the person's profession and the
12 person does not represent himself or herself as a Doctor of
13 Medicine, Physician, Surgeon, Physician and Surgeon, Dr., M.D., or
14 any combination thereof.

15 E. Nothing in the Oklahoma Allopathic Medical and Surgical
16 Licensure and Supervision Act shall prohibit:

17 1. The service rendered by a physician's unlicensed trained
18 assistant, if such service is rendered under the supervision and
19 control of a licensed physician pursuant to Board rules, provided
20 such rules are not in conflict with the provisions of any other
21 healing arts licensure act or rules promulgated pursuant to such
22 act; or

23 2. The service of any other person duly licensed or certified
24 by the state to practice the healing arts.

1 F. Nothing in the Oklahoma Allopathic Medical and Surgical
2 Licensure and Supervision Act shall prohibit services rendered by
3 any person not licensed by the Board and practicing any
4 nonallopathic healing practice.

5 G. Nothing in the Oklahoma Allopathic Medical and Surgical
6 Licensure and Supervision Act shall be construed as to require a
7 physician to secure a Maintenance of Certification (MOC) as a
8 condition of licensure, reimbursement, employment or admitting
9 privileges at a hospital in this state. For the purposes of this
10 subsection, "Maintenance of Certification (MOC)" shall mean a
11 continuing education program measuring core competencies in the
12 practice of medicine and surgery and approved by a nationally-
13 recognized accrediting organization.

14 SECTION 2. AMENDATORY 59 O.S. 2011, Section 622, as
15 amended by Section 1, Chapter 83, O.S.L. 2014 (59 O.S. Supp. 2015,
16 Section 622), is amended to read as follows:

17 Section 622. A. 1. Except as otherwise provided by this
18 section, it shall be unlawful for any person to practice as an
19 osteopathic physician and surgeon in this state, without a license
20 to do so, issued by the State Board of Osteopathic Examiners;
21 provided, that any license or certificate issued under the laws of
22 this state, authorizing its holder to practice osteopathic medicine,
23 shall remain in full force and effect. Persons who hold themselves
24 out as osteopathic physicians in this state without a license issued

1 by the State Board of Osteopathic Examiners submit themselves to the
2 jurisdiction of the State Board of Osteopathic Examiners.

3 2. Osteopathic physicians engaged in postgraduate training
4 beyond the internship year, also known as PGY-1, shall be licensed.
5 Osteopathic physicians engaged in the internship or PGY-1 year may
6 be eligible for a resident training license.

7 3. Osteopathic physicians engaged in interventional pain
8 management pursuant to the Oklahoma Interventional Pain Management
9 and Treatment Act shall be licensed by the State Board of
10 Osteopathic Examiners.

11 B. 1. A person within or outside of this state who performs
12 through electronic communications diagnostic or treatment services
13 within the scope of practice of an osteopathic physician and
14 surgeon, including but not limited to, stroke prevention and
15 treatment, for any patient whose condition is being diagnosed or
16 treated within this state shall be licensed in this state, pursuant
17 to the provisions of the Oklahoma Osteopathic Medicine Act.

18 However, in such cases, a nonresident osteopathic physician who,
19 while located outside this state, consults on an irregular basis
20 with a physician who is located in this state is not required to be
21 licensed in this state.

22 2. Any osteopathic physician licensed in this state who engages
23 in the prescription of drugs, devices, or treatments via electronic
24 means may do so only in the context of an appropriate

1 physician/patient relationship wherein a proper patient record is
2 maintained including, at the minimum, a current history and
3 physical.

4 3. Any commissioned medical officer of the armed forces of the
5 United States or medical officer of the United States Public Health
6 Service or the Veterans Administration of the United States, in the
7 discharge of official duties and/or within federally controlled
8 facilities, who is fully licensed to practice osteopathic medicine
9 and surgery in one or more jurisdictions of the United States shall
10 not be required to be licensed in this state pursuant to the
11 Oklahoma Osteopathic Medicine Act, unless the person already holds
12 an osteopathic medical license in this state pursuant to the
13 Oklahoma Osteopathic Medicine Act. In such case, the medical
14 officer shall be subject to the Oklahoma Osteopathic Medicine Act.

15 4. A person who performs any of the functions covered by this
16 subsection submits themselves to the jurisdiction of the courts of
17 this state for the purposes of any cause of action resulting from
18 the functions performed.

19 C. A hospital or related institution, as such terms are defined
20 in Section 1-701 of Title 63 of the Oklahoma Statutes, which has the
21 principal purpose or function of providing hospital or medical care,
22 including but not limited to any corporation, association, trust, or
23 other organization organized and operated for such purpose, may
24 employ one or more persons who are duly licensed to practice

1 osteopathic medicine in this state without being regarded as itself
2 practicing osteopathic medicine within the meaning and provisions of
3 this section. The employment by the hospital or related institution
4 of any person who is duly licensed shall not, in and of itself, be
5 considered as an act of unprofessional conduct by the person so
6 employed. Nothing provided herein shall eliminate, limit or
7 restrict the liability for any act or failure to act of any
8 hospital, any hospital's employees or persons duly licensed to
9 practice osteopathic medicine.

10 D. Nothing in the Oklahoma Osteopathic Medicine Act shall be
11 construed as to require an osteopathic physician to secure an
12 Osteopathic Continuous Certification (OCC) as a condition of
13 licensure, reimbursement, employment or admitting privileges at a
14 hospital in this state. For the purposes of this subsection,
15 "Osteopathic Continuous Certification (OCC)" shall mean a continuing
16 education program measuring core competencies in the practice of
17 medicine and surgery and approved by a nationally-recognized
18 accrediting organization.

19 SECTION 3. This act shall become effective November 1, 2016.
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21 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 03/23/2016 -
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