

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 497

By: McCortney

4
5
6 AS INTRODUCED

7 An Act relating to the healing arts; defining terms;
8 requiring health care providers to use certain titles
9 in advertisements and professional identifications;
10 limiting certain disclosures; prohibiting certain
11 advertisements; requiring display of license and
12 certain identification; prohibiting certain use of
13 titles; amending 59 O.S. 2011, Section 492, as
14 amended by Section 1, Chapter 40, O.S.L. 2016 (59
15 O.S. Supp. 2020, Section 492), which relates to the
16 practice of medicine; adding terms whose use
17 constitute practice of medicine; modifying definition
18 of practice of medicine and surgery; amending 59 O.S.
19 2011, Sections 725.2, 731.2 and 731.3, which relate
20 to use of titles of the healing arts; modifying
21 certain provisions to include medical specialty
22 titles; updating language; providing gender-neutral
23 language; providing for codification; and providing
24 an effective date.

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

19 SECTION 1. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 6006 of Title 59, unless there
21 is created a duplication in numbering, reads as follows:

22 A. As used in this section:

23 1. "Advertisement" means a communication, whether printed,
24 electronic or oral, that names a health care provider and the

1 practice, profession or institution in which the provider is
2 employed, volunteers or otherwise provides health care services.
3 Advertisement includes business cards, letterhead, patient
4 brochures, e-mail, Internet, audio and video communications and any
5 other communication; and

6 2. "Deceptive or misleading terms or false representations"
7 includes, but is not limited to, use of titles, terms or other words
8 that misstates, falsely describes, falsely holds out or falsely
9 details the health care provider's professional skills, training,
10 expertise, education, board certification or licensure.

11 B. Health care providers shall use the following license titles
12 in advertisements and in professional identifications:

13 1. A medical doctor or doctor of osteopathy shall use any of
14 the following titles:

- 15 a. "physician", "doctor of medicine", "medical doctor",
16 "M.D.", or "doctor of osteopathic medicine", "doctor
17 of osteopathy", "osteopathic physician" or "D.O.", or
18 b. a specialist designation, if certified by the American
19 Board of Medical Specialties or an American
20 Osteopathic Association certifying board or if board-
21 eligible including "surgeon", "dermatologist",
22 "anesthesiologist", or a similar title;

23 2. A Registered Nurse shall only use the titles "Registered
24 Nurse" or "R.N.";

1 3. A Licensed Practical Nurse shall only use the titles
2 "Licensed Practical Nurse" or "L.P.N.";

3 4. An Advanced Practice Registered Nurse shall only use the
4 titles "Advanced Practice Registered Nurse" or "APRN", and one of
5 the following role titles:

- 6 a. for a Certified Registered Nurse Anesthetist,
7 "Certified Registered Nurse Anesthetist" or "CRNA",
- 8 b. for a Clinical Nurse Specialist, "Clinical Nurse
9 Specialist" or "CNS",
- 10 c. for a Certified Nurse Practitioner, "Certified Nurse
11 Practitioner" or "CNP", or
- 12 d. for a Certified Nurse-Midwife, "Certified Nurse-
13 Midwife" or "CNM";

14 5. A physician assistant shall only use the titles "physician
15 assistant" or "P.A."; and

16 6. Any other health care practitioner shall use the appropriate
17 title as indicated by the applicable statute.

18 C. An advertisement by a health care provider shall disclose
19 only the applicable license, as provided in this section and by the
20 applicable statute, under which the health care provider is
21 authorized to provide services. The advertisement:

22 1. Shall not include deceptive or misleading terms or false
23 representations; and

1 2. Shall include the health care provider's name and the type
2 of license the provider holds, as provided in this section and by
3 the applicable statute, for the provider's profession.

4 D. 1. A health care provider shall display a copy of the
5 provider's license in a prominent place in an office area visible to
6 current and prospective patients. If the health care provider sees
7 patients in a setting outside of a licensed health care facility,
8 the copy must be of sufficient size to be visible and apparent to
9 patients, except that a copy no smaller than the original license is
10 deemed to be sufficient.

11 2. A health care provider seeing patients on a face-to-face
12 basis shall wear a name badge or some other form of identification
13 that clearly discloses:

- 14 a. the health care provider's name,
- 15 b. the type of license, registration or certification the
16 health care provider holds, as provided in this
17 section and by the applicable statute, for the health
18 care provider's profession, and
- 19 c. the health care provider's medical staff position, if
20 applicable.

21 E. Except as provided in Section 725.2 of Title 59 of the
22 Oklahoma Statutes, a person shall not use, imply the use of, or
23 publicly display a title in connection with a person's name
24 including "physician", "doctor" or "surgeon" or any similar title or

1 description of services, or any other words, letters or
2 abbreviations or any combination thereof with the intent to
3 represent, or that imply, that the person practices medicine.
4 Unless authorized to practice medicine by the State Board of Medical
5 Licensure and Supervision or the State Board of Osteopathic
6 Examiners, a person shall not use, imply the use of, or publicly
7 display a title in connection with a person's name including "doctor
8 of medicine", "medical doctor", "M.D.", "osteopath", "doctor of
9 osteopathic medicine", "doctor of osteopathy", "osteopathic
10 physician", "D.O.", "anesthesiologist", "cardiologist",
11 "dermatologist", "endocrinologist", "gastroenterologist", "general
12 practitioner", "gynecologist", "hematologist", "internist",
13 "laryngologist", "nephrologist", "neurologist", "obstetrician",
14 "oncologist", "ophthalmologist", "orthopedic surgeon",
15 "orthopedist", "otologist", "otolaryngologist",
16 "otorhinolaryngologist", "pathologist", "pediatrician", "primary
17 care physician", "proctologist", "psychiatrist", "radiologist",
18 "rheumatologist", "rhinologist", "urologist" or any similar title or
19 description of services, or any other words, letters or
20 abbreviations or any combination thereof with the intent to
21 represent, or that imply, that the person practices medicine.

22 SECTION 2. AMENDATORY 59 O.S. 2011, Section 492, as
23 amended by Section 1, Chapter 40, O.S.L. 2016 (59 O.S. Supp. 2020,
24 Section 492), is amended to read as follows:

1 Section 492. A. Every person shall be regarded as practicing
2 allopathic medicine within the meaning and provisions of ~~this act~~
3 the Oklahoma Allopathic Medical and Surgical Licensure and
4 Supervision Act, who shall append to his or her name the letters
5 "M.D.", "Physician", "Surgeon", "Doctor", "doctor of medicine",
6 "medical doctor", "anesthesiologist", "cardiologist",
7 "dermatologist", "endocrinologist", "gastroenterologist", "general
8 practitioner", "gynecologist", "hematologist", "internist",
9 "laryngologist", "nephrologist", "neurologist", "obstetrician",
10 "oncologist", "ophthalmologist", "orthopedic surgeon",
11 "orthopedist", "otologist", "otolaryngologist",
12 "otorhinolaryngologist", "pathologist", "pediatrician", "primary
13 care physician", "proctologist", "psychiatrist", "radiologist",
14 "rheumatologist", "rhinologist", "urologist" or any other title,
15 letters, description of services or designation, either alone or in
16 connection with other words, which represent that such person is a
17 physician, or who shall for a fee or any form of compensation
18 diagnose ~~and/or~~ or treat disease, injury or deformity of persons in
19 this state by any allopathic legend drugs, surgery, manual, or
20 mechanical treatment unless otherwise authorized by law.

21 B. A hospital or related institution as such terms are defined
22 in Section 1-701 of Title 63 of the Oklahoma Statutes, which has the
23 principal purpose or function of providing hospital or medical care,
24 including but not limited to any corporation, association, trust, or

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

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

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

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

20 3. a. any offer or attempt, except as otherwise authorized
21 by law, to prevent, diagnose, correct, or treat in any
22 manner or by any means, methods, devices, or
23 instrumentalities except for manual manipulation any
24 disease, illness, pain, wound, fracture, infirmity,

1 defect, or abnormal physical or mental condition of
2 any person, including the management of pregnancy and
3 parturition, except as otherwise authorized by law,

4 b. except as provided in subsection D of this section,
5 performance by a person within or outside of this
6 state, through an ongoing regular arrangement, of
7 diagnostic or treatment services, including but not
8 limited to, stroke prevention and treatment, through
9 electronic communications for any patient whose
10 condition is being diagnosed or treated within this
11 state by a physician duly licensed and practicing in
12 this state. A person who performs any of the
13 functions covered by this subparagraph submits himself
14 or herself to the jurisdiction of the courts of this
15 state for the purposes of any cause of action
16 resulting from the functions performed, and

17 c. nothing in the Oklahoma Allopathic Medical and
18 Surgical Licensure and Supervision Act shall be
19 construed to affect or give jurisdiction to the Board
20 over any person other than medical doctors or persons
21 holding themselves out as medical doctors;

22 4. Any offer or attempt to perform any surgical operation upon
23 any person, except as otherwise authorized by law; and
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1 5. The use of the title Doctor, Doctor of Medicine, Physician,
2 Surgeon, Physician and Surgeon, Dr., M.D. or any of the medical
3 specialty titles listed in subsection A of this section, or any
4 combination thereof, in the conduct of any occupation or profession
5 pertaining to the prevention, diagnosis, or treatment of human
6 disease or condition unless, where appropriate, such a designation
7 additionally contains the description of another branch of the
8 healing arts for which one holds a valid license in this state or as
9 otherwise provided by law.

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

12 1. A student while engaged in training in a medical school
13 approved by the Board or while engaged in graduate medical training
14 under the supervision of the medical staff of a hospital or other
15 health care facility approved by the state medical board for such
16 training, except that a student engaged in graduate medical training
17 shall hold a license issued by the Board for such training;

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

21 3. A commissioned medical officer of the armed forces of the
22 United States or medical officer of the United States Public Health
23 Service or the Department of Veterans Affairs of the United States
24 in the discharge of official duties ~~and/or~~ or within federally

1 controlled facilities; and provided that such person shall be fully
2 licensed to practice medicine and surgery in one or more
3 jurisdictions of the United States; provided further that such
4 person who holds a medical license in this state shall be subject to
5 the provisions of the Oklahoma Allopathic Medical and Surgical
6 Licensure and Supervision Act;

7 4. Any person licensed under any other act when properly
8 practicing in the healing art for which that person is duly
9 licensed;

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

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

14 7. Any person licensed to practice medicine and surgery in
15 another state or territory of the United States who renders
16 emergency medical treatment or briefly provides critical medical
17 service at the specific lawful direction of a medical institution or
18 federal agency that assumes full responsibility for that treatment
19 or service and is approved by the Board;

20 8. Any person who is licensed to practice medicine and surgery
21 in another state or territory of the United States whose sole
22 purpose and activity is limited to brief actual consultation with a
23 specific physician who is licensed to practice medicine and surgery
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1 by the Board, other than a person with a special or restricted
2 license; or

3 9. The practice of any other person as licensed by appropriate
4 agencies of this state, provided that such duties are consistent
5 with the accepted standards of the person's profession and the
6 person does not represent himself or herself as a Doctor, Doctor of
7 Medicine, Physician, Surgeon, Physician and Surgeon, Dr., M.D. or
8 any of the medical specialties listed in subsection A of this
9 section, or any combination thereof, except as otherwise provided by
10 law.

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

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

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

21 F. Nothing in the Oklahoma Allopathic Medical and Surgical
22 Licensure and Supervision Act shall prohibit services rendered by
23 any person not licensed by the Board and practicing any
24 nonallopathic healing practice.

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

10 SECTION 3. AMENDATORY 59 O.S. 2011, Section 725.2, is
11 amended to read as follows:

12 Section 725.2. A. The following nine classes of persons may
13 use the word "Doctor", or an abbreviation thereof, and shall have
14 the right to use, whether or not in conjunction with the word
15 "Doctor", or any abbreviation thereof, the following designations:

16 1. The letters "D.P.M." or the words podiatrist, doctor of
17 podiatry, podiatric surgeon, or doctor of podiatric medicine by a
18 person licensed to practice podiatry under the Podiatric Medicine
19 Practice Act;

20 2. The letters "D.C." or the words chiropractor or doctor of
21 chiropractic by a person licensed to practice chiropractic under the
22 Oklahoma Chiropractic Practice Act;

23 3. The letters "D.D.S." or "D.M.D.", as appropriate, or the
24 words dentist, doctor of dental surgery, or doctor of dental
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1 medicine, as appropriate, by a person licensed to practice dentistry
2 under the State Dental Act;

3 4. The letters "M.D." or the words surgeon, medical doctor, or
4 doctor of medicine, or medical specialty titles, by a person
5 licensed to practice medicine and surgery under the Oklahoma
6 Allopathic Medical and Surgical Licensure and Supervision Act;

7 5. The letters "O.D." or the words optometrist or doctor of
8 optometry by a person licensed to practice optometry under Sections
9 581 through 606 of this title;

10 6. The letters "D.O." or the words surgeon, osteopathic
11 surgeon, osteopath, doctor of osteopathy, or doctor of osteopathic
12 medicine by a person licensed to practice osteopathy under the
13 Oklahoma Osteopathic Medicine Act;

14 7. The letters "Ph.D.", "Ed.D.", or "Psy.D." or the words
15 psychologist, therapist, or counselor by a person licensed as a
16 health service psychologist pursuant to the Psychologists Licensing
17 Act;

18 8. The letters "Ph.D.", "Ed.D.", or other letters representing
19 a doctoral degree or the words language pathologist, speech
20 pathologist, or speech and language pathologist by a person licensed
21 as a speech and language pathologist pursuant to the Speech-Language
22 Pathology and Audiology Licensing Act and who has earned a doctoral
23 degree from a regionally accredited institution of higher learning
24 in the field of speech and language pathology; and

1 9. The letters "Ph.D.", "Ed.D.", or other letters representing
2 a doctoral degree or the word audiologist by a person licensed as an
3 audiologist pursuant to the Speech-Language Pathology and Audiology
4 Licensing Act and who has earned a doctoral degree from a regionally
5 accredited institution of higher learning in the field of audiology.

6 B. Unless otherwise specifically provided in a particular
7 section or chapter of the Oklahoma Statutes, the word "doctor" or
8 "doctors" shall mean and include each of the nine classes of persons
9 listed in subsection A and the word "physician" or "physicians", as
10 provided in subsection C of this section. Any other person using
11 the term doctor, or any abbreviation thereof, shall designate the
12 authority under which the title is used or the college or honorary
13 degree that gives rise to use of the title.

14 C. Unless otherwise specifically provided in a particular
15 section or chapter of the Oklahoma Statutes, the word "physician" or
16 "physicians" shall mean and include each of the classes of persons
17 listed in paragraphs 1 through 6 of subsection A and the word
18 "doctor" or "doctors" as provided in subsection B of this section.
19 The term "physician" shall not include any person specified in
20 paragraphs 7 through 9 of subsection A of this section unless such
21 person is otherwise authorized to use such designation pursuant to
22 this section.

23 D. For purposes of this section, "provider" means and includes:
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25

1 1. Each of the nine classes of persons listed in subsection A
2 of this section and referred to in subsections B and C of this
3 section; and

4 2. Any other person using the term doctor or any abbreviation
5 thereof.

6 E. Persons in each of the nine classes listed in subsection A,
7 and referred to in subsections B and C, of this section shall
8 identify through written notice, which may include the wearing of a
9 name tag, the type of license under which the doctor is practicing,
10 utilizing the designations provided in subsections A, B and C of
11 this section. Each applicable licensing board is authorized by rule
12 to determine how its license holders may comply with this disclosure
13 requirement.

14 F. 1. Any advertisement for health care services naming a
15 provider shall:

16 a. identify the type of license of the doctor utilizing
17 the letters or words set forth in this section if the
18 person is one of the classes of persons listed in
19 subsection A of this section, and referred to in
20 subsections B and C of this section, or

21 b. utilize appropriate, accepted, and easily understood
22 words or letters, which clearly show and indicate the
23 branch of the healing art in which the person is
24 licensed to practice and is engaged in, if the person

1 is not one of the nine classes of persons listed in
2 subsection A of this section, or referred to in
3 subsections B and C of this section.

4 2. The term "advertisement" includes any printed document
5 including letterhead, video clip, or audio clip created by, for, or
6 at the direction of the provider or providers and advertised for the
7 purpose of promoting the services of the doctor or provider.

8 G. 1. It shall be unlawful for any medical doctor, doctor of
9 osteopathic medicine, doctor of dental surgery, doctor of dental
10 medicine, doctor of optometry, doctor of podiatry, or doctor of
11 chiropractic to make any deceptive or misleading statement, or
12 engage in any deceptive or misleading act, that deceives or misleads
13 the public or a prospective or current patient, regarding the
14 training and the license under which the person is authorized to
15 practice.

16 2. The term "deceptive or misleading statement or act"
17 includes, but is not limited to:

- 18 a. such statement or act in any advertising medium,
- 19 b. making a false statement regarding the education,
20 skills, training, or licensure of a person, or
- 21 c. in any other way describing the profession, skills,
22 training, expertise, education, or licensure of a
23 person in a fashion that causes the public, a
24 potential patient, or current patient to believe that

1 the person is a medical doctor, doctor of osteopathic
2 medicine, doctor of dental surgery, doctor of dental
3 medicine, doctor of optometry, doctor of podiatry, or
4 doctor of chiropractic when that person does not hold
5 such credentials.

6 H. Notwithstanding any other provision of this section, a
7 person licensed in this state to perform speech pathology or
8 audiology services is designated to be a practitioner of the healing
9 art for purposes of making a referral for speech pathology or
10 audiology services pursuant to the provisions of the Individuals
11 with Disabilities Education Act, Amendment of 1997, Public Law 105-
12 17, and Section 504 of the Rehabilitation Act of 1973.

13 SECTION 4. AMENDATORY 59 O.S. 2011, Section 731.2, is
14 amended to read as follows:

15 Section 731.2. A. Proof that any class of persons identified
16 in Section 725.2 of this title appends to their name the word
17 "Doctor", the abbreviation "Dr.", any medical specialty title or any
18 other word, abbreviation or designation, which word, abbreviation or
19 designation, ~~indicate~~ indicates that such person is qualified for
20 diagnosis or treatment, as herein defined, shall constitute prima
21 facie evidence that such person is holding himself or herself out,
22 within the meaning of ~~this act~~ Sections 731.1 through 731.6 of this
23 title, as qualified to engage in diagnosis or treatment.

1 B. Nothing in this section shall be construed to prevent a
2 person specified in paragraphs 7 through 9 of subsection A of
3 Section 725.2 of this title from appending to such person's name the
4 word "Doctor", so long as such person follows such name and
5 designation with the letters signifying the recognized doctoral
6 degrees specified in paragraphs 7 through 9 of subsection A of
7 Section 725.2 of this title.

8 SECTION 5. AMENDATORY 59 O.S. 2011, Section 731.3, is
9 amended to read as follows:

10 Section 731.3. Except as authorized by the provisions of
11 Sections 492 and 731.5 of this title and ~~Section 5 of this act~~
12 Section 1-116.2 of Title 70 of the Oklahoma Statutes, no person
13 shall in any manner engage in, offer to engage in, or hold himself
14 or herself out as qualified to engage in the diagnosis ~~and/or~~ or
15 treatment of any human ill including by the use of medical titles or
16 medical specialty titles, unless such person is the holder of a
17 legal and unrevoked license or certificate issued under the laws of
18 Oklahoma authorizing such person to practice the healing art covered
19 by such license and is practicing thereunder in the manner and
20 subject to the limitations provided by the laws of ~~the State of~~
21 ~~Oklahoma~~ this state for the issuance of such license or certificate
22 for the practice thereunder.

23 SECTION 6. This act shall become effective November 1, 2021.

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