

1 amended by Section 1, Chapter 279, O.S.L. 2022 (59
2 O.S. Supp. 2022, Section 4000.1), which relates to
3 grounds for denial of a license or certification to
4 practice an occupation; modifying applicability of
5 section; updating statutory language; providing for
6 codification; and providing an effective date.

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

7 SECTION 1. AMENDATORY 59 O.S. 2021, Section 481, is
8 amended to read as follows:

9 Section 481. A. A State Board of Medical Licensure and
10 Supervision hereinafter referred to as the "Board", is hereby re-
11 created, to continue until July 1, 2024, in accordance with the
12 provisions of the Oklahoma Sunset Law. The Board shall be composed
13 of seven (7) allopathic physicians licensed to practice medicine in
14 this state and represent the public and four (4) lay members.

15 B. The physician members of the Board shall be graduates of
16 legally chartered medical schools recognized by the Oklahoma State
17 Regents for Higher Education or the ~~Liaison Council~~ Committee on
18 Medical Education or foreign medical schools recognized by the State
19 Board of Medical Licensure and Supervision. The physician members
20 shall ~~have~~ :

21 1. Be currently licensed physicians who have actively practiced
22 as licensed physicians continuously in this state for the three (3)
23 years immediately preceding their appointment to the Board; or

1 2. Be retired physicians; provided, that such physicians must
2 demonstrate satisfactorily to the Board that since retirement they
3 have remained in compliance with, and are currently in compliance
4 with, continuing medical education requirements of the Board.

5 C. All members of the Board shall be residents of this state
6 and shall be appointed by the Governor as provided for in Section
7 482 of this title. All present members of the Board shall continue
8 to serve for the remainder of their current terms.

9 SECTION 2. AMENDATORY 59 O.S. 2021, Section 482, is
10 amended to read as follows:

11 Section 482. Physician members of the State Board of Medical
12 Licensure and Supervision shall be appointed for terms of seven (7)
13 years. The lay members of the Board shall serve terms coterminous
14 with that of the Governor and until a qualified successor has been
15 duly appointed and shall serve at the pleasure of the Governor. No
16 member shall be appointed to serve more than two complete
17 consecutive terms. Each physician member shall hold office until
18 the expiration of the term for which appointed or until a qualified
19 successor has been duly appointed. An appointment shall be made by
20 the Governor within ninety (90) days after the expiration of the
21 term of any member or the occurrence of a vacancy on the Board due
22 to resignation, death, or any cause resulting in an unexpired term.
23 The appointment of allopathic physicians shall be made from a list
24 of three names submitted to the Governor by the Oklahoma State

1 Medical Association. The Association may submit names of members or
2 nonmembers of the Association. No member of the Board shall be a
3 stockholder in ~~or full-time salaried or full-time geographic member~~
4 ~~of the faculty or board of trustees of any medical school.~~

5 SECTION 3. AMENDATORY 59 O.S. 2021, Section 509.1, is
6 amended to read as follows:

7 Section 509.1. A. RANGE OF ACTIONS: The State Board of
8 Medical Licensure and Supervision may impose disciplinary actions in
9 accordance with the severity of violation of the Oklahoma Allopathic
10 Medical and Surgical Licensure and Supervision Act. Disciplinary
11 actions may include, but are not limited to the following:

- 12 1. Revocation of the medical license with or without the right
13 to reapply;
- 14 2. Suspension of the medical license;
- 15 3. Probation;
- 16 4. Stipulations, limitations, restrictions, and conditions
17 relating to practice;
- 18 5. Censure, including specific redress, if appropriate;
- 19 6. Reprimand;
- 20 7. A period of free public or charity service;
- 21 8. Satisfactory completion of an educational, training, and/or
22 treatment program or programs; and
- 23 9. Administrative fines of up to Five Thousand Dollars
24 (\$5,000.00) per violation.

1 Provided, as a condition of disciplinary action sanctions, the Board
2 may impose as a condition of any disciplinary action, the payment of
3 costs expended by the Board for any legal fees and costs and
4 probation and monitoring fees including, but not limited to, staff
5 time, salary and travel expense, witness fees and attorney fees.
6 The Board may take such actions singly or in combination as the
7 nature of the violation requires.

8 B. LETTER OF CONCERN: The Board may authorize the secretary to
9 issue a confidential and privileged letter of concern to a licensee
10 when evidence does not warrant formal proceedings, but the secretary
11 has noted indications of possible errant conduct that could lead to
12 serious consequences and formal action. The letter of concern may
13 contain, at the secretary's discretion, clarifying information from
14 the licensee.

15 C. EXAMINATION/EVALUATION: The Board may, upon reasonable
16 cause, require professional competency, physical, mental, or
17 chemical dependency examinations of any licensee, including
18 withdrawal and laboratory examination of body fluids.

19 D. DISCIPLINARY ACTION AGAINST LICENSEES:

20 1. The Board shall promulgate rules describing acts of
21 unprofessional or unethical conduct by physicians pursuant to the
22 Oklahoma Allopathic Medical and Surgical Licensure and Supervision
23 Act; and
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1 2. Grounds for Action: The Board may take disciplinary action
2 for unprofessional or unethical conduct as deemed appropriate based
3 upon the merits of each case and as set out by rule. The Board
4 shall not revoke the license of a person otherwise qualified to
5 practice allopathic medicine within the meaning of the Oklahoma
6 Allopathic Medical and Surgical Licensure and Supervision Act solely
7 because the person's practice or a therapy is experimental or
8 nontraditional.

9 Reports of all disciplinary action provided for in this section
10 will be available to the public upon request. Investigative files
11 shall remain confidential and privileged. The Board, its employees,
12 or other agents of the Board shall keep confidential and privileged
13 all information that initiated, was obtained during, or is related
14 to an investigation into possible violations of any and all acts
15 governing any and all professional licensees under the legislative
16 jurisdiction of the State Board of Medical Licensure and
17 Supervision. However, such information may be offered by the state
18 in administrative proceedings before the Board and if admitted the
19 information then becomes a public record. Unless admitted into
20 administrative proceedings, the information shall not be deemed to
21 be a record as that term is defined in the Oklahoma Open Records
22 Act, nor shall the information be subject to subpoena or discovery
23 in any civil or criminal proceedings, except that the Board may give
24 such information to law enforcement and other state agencies as

1 necessary and appropriate in the discharge of the duties of that
2 agency and only under circumstances that ensure against unauthorized
3 access to the information.

4 E. SURRENDER IN LIEU OF PROSECUTION:

5 1. The Board may accept a surrender of license from a licensee
6 who has engaged in unprofessional conduct in lieu of Board staff
7 prosecuting a pending disciplinary action or filing formal
8 disciplinary proceedings only as provided in this section. To
9 effect such a surrender, the licensee must submit a sworn statement
10 to the Board:

- 11 a. expressing the licensee's desire to surrender the
12 license,
- 13 b. acknowledging that the surrender is freely and
14 voluntarily made, that the licensee has not been
15 subjected to coercion or duress, and that the licensee
16 is fully aware of the consequences of the license
17 surrender,
- 18 c. stating that the licensee is the subject of an
19 investigation or proceeding by the Board or a law
20 enforcement or other regulatory agency involving
21 allegations which, if proven, would constitute grounds
22 for disciplinary action by the Board, and
- 23 d. specifically admitting to and describing the
24 misconduct.

1 2. The sworn written statement must be submitted with the
2 licensee's wallet card and wall certificate. The Secretary or
3 Executive Director of the Board may accept the sworn statement,
4 wallet card and wall certificate from a licensee pending formal
5 acceptance by the Board. The issuance of a complaint and citation
6 by the Board shall not be necessary for the Board to accept a
7 surrender under this subsection. A surrender under this subsection
8 shall be considered disciplinary action by the Board in all cases,
9 even in cases where surrender occurs prior to the issuance of a
10 formal complaint and citation, and shall be reported as disciplinary
11 action by the Board to the public and any other entity to whom the
12 Board regularly reports disciplinary actions.

13 3. As a condition to acceptance of the surrender, the Board may
14 require the licensee to pay the costs expended by the Board for any
15 legal fees and costs and any investigation, probation and monitoring
16 fees including, but not limited to, staff time, salary and travel
17 expense, witness fees and attorney fees.

18 4. The licensee whose surrender in lieu of prosecution is
19 accepted by the Board shall be ineligible to reapply for
20 reinstatement of his or her license for at least one (1) year from
21 the date of the accepted surrender.

22 F. ALL LICENSED PROFESSIONALS: All disciplinary actions
23 defined in this section are applicable to any and all professional
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1 licensees under the legislative jurisdiction of the State Board of
2 Medical Licensure and Supervision.

3 SECTION 4. AMENDATORY 59 O.S. 2021, Section 503.2, is
4 amended to read as follows:

5 Section 503.2. A. The State Board of Medical Licensure and
6 Supervision may promulgate rules to create administrative remedies
7 for licensee violations of statutory or regulatory prescribed
8 unprofessional conduct.

9 B. The Board is authorized to prescribe by rule administrative
10 remedies, disciplinary actions and administrative procedures to
11 provide remedies and disciplinary actions for licensee violations of
12 statutory or regulatory prescribed unprofessional conduct, to
13 include fines up to the limits otherwise prescribed by statute or
14 rule.

15 C. Any such administrative action rules promulgated by the
16 Board shall provide procedure:

17 1. For the licensee to contest or dispute any administrative
18 action;

19 2. For procedures for resolution of any such contest or
20 dispute; and

21 3. For appropriate protection of private information consistent
22 with state and federal law.

23 D. ALL LICENSED PROFESSIONALS: All administrative remedies
24 defined in this section are applicable to any and all professional

1 licensees under the legislative jurisdiction of the State Board of
2 Medical Licensure and Supervision.

3 SECTION 5. AMENDATORY 59 O.S. 2021, Section 536.8, is
4 amended to read as follows:

5 Section 536.8. ~~A. Every person who is licensed pursuant to the~~
6 ~~provisions of the Registered Electrologist Act and who is licensed~~
7 ~~to practice electrolysis in this state shall register the license~~
8 ~~with the county clerk of the county in which said person has legal~~
9 ~~residence. The county clerk to whom such license is presented shall~~
10 ~~register the name and address of the person designated in the~~
11 ~~license, together with the date and the number inscribed thereon,~~
12 ~~which record shall be open to the public, and shall file with the~~
13 ~~Board annually, during the month of February, a notice of the record~~
14 ~~so made.~~

15 ~~B.~~ Every person who is licensed pursuant to the provisions of
16 the Registered Electrologist Act to practice electrolysis in this
17 state shall keep ~~said~~ the license displayed in his place of business
18 as long as he or she is engaged in the practice of electrolysis.
19 The receipt for the annual renewal of license shall be kept at such
20 person's place of business and shall be shown to any person
21 requesting to see the same. The licensee shall keep the Board
22 informed of his or her current address. A license issued by the
23 Board is the property of the Board and shall be surrendered on
24 demand of the Board.

1 SECTION 6. AMENDATORY 59 O.S. 2021, Section 2030, is
2 amended to read as follows:

3 Section 2030. The State Board of Medical Licensure and
4 Supervision shall:

5 1. Examine, license and renew the licenses of duly qualified
6 applicants;

7 2. Maintain an up-to-date list of every person licensed to
8 practice respiratory care pursuant to the Respiratory Care Practice
9 Act. The list shall show the licensee's last-known place of
10 employment, last-known place of residence, and the date and number
11 of the license;

12 3. Cause the prosecution of all persons violating the
13 Respiratory Care Practice Act and incur necessary expenses therefor;

14 4. Keep a record of all proceedings of the Board and make such
15 record available to the public for inspection during reasonable
16 business hours;

17 5. Conduct hearings upon charges calling for discipline of a
18 licensee, or denial, revocation or suspension of a license; and

19 6. Share information on a case-by-case basis of any person
20 whose license has been suspended, revoked or denied. This
21 information shall include the name, ~~social security number~~, type and
22 cause of action, date and penalty incurred, and the length of
23 penalty. This information shall be available for public inspection
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1 during reasonable business hours and shall be supplied to similar
2 boards in other states upon request.

3 SECTION 7. AMENDATORY 59 O.S. 2021, Section 3203, is
4 amended to read as follows:

5 Section 3203. The State Board of Medical Licensure and
6 Supervision shall:

7 1. Examine, license and renew the licenses of duly qualified
8 applicants;

9 2. Maintain an up-to-date list of every person licensed to
10 practice pursuant to the Oklahoma Anesthesiologist Assistant Act.
11 The list shall show the licensee's last-known place of employment,
12 last-known place of residence, and the date and number of the
13 license;

14 3. Cause the prosecution of all persons violating the Oklahoma
15 Anesthesiologist Assistant Act and incur necessary expenses
16 therefor;

17 4. Keep a record of all proceedings of the Board and make such
18 record available to the public for inspection during reasonable
19 business hours;

20 5. Conduct hearings upon charges calling for discipline of a
21 licensee, or denial, revocation or suspension of a license; and

22 6. Share information on a case-by-case basis of any person
23 whose license has been suspended, revoked or denied. The
24 information shall include the name, ~~social security number~~, type and

1 cause of action, date and penalty incurred, and the length of
2 penalty. The information shall be available for public inspection
3 during reasonable business hours and shall be supplied to similar
4 boards in other states upon request.

5 SECTION 8. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 3209 of Title 59, unless there
7 is created a duplication in numbering, reads as follows:

8 A. There is hereby established the Anesthesiologist Assistants
9 Advisory Committee to advise the State Board of Medical Licensure
10 and Supervision on matters pertaining to the licensure, education,
11 and continuing education of licensed anesthesiologist assistants and
12 the practice of anesthesiologist assistants.

13 B. The Board shall appoint five (5) members to the
14 Anesthesiologist Assistants Advisory Committee as follows:

15 1. Three members shall be qualified physicians who have been
16 actively practicing anesthesiology in this state for at least five
17 (5) years; and

18 2. Two members shall be licensed anesthesiologist assistants
19 who have been actively practicing as an anesthesiologist assistant
20 in this state for at least three (3) years.

21 C. The physician members of the Committee shall be appointed
22 for staggered terms of one (1), two (2), and three (3) years,
23 respectively.

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1 D. Terms of office of each appointed member shall expire July 1
2 of that year in which they expire regardless of the calendar date
3 when such appointments were made. Subsequent appointments shall be
4 made for a term of three (3) years or until successors are appointed
5 and qualified.

6 E. Vacancies shall be filled by the Board in the same manner as
7 the original appointment.

8 F. Members of the Committee shall serve without compensation,
9 except that members shall be reimbursed for necessary travel
10 expenses incurred in the performance of their duties in accordance
11 with the State Travel Reimbursement Act.

12 G. The Committee shall have the power and duty to:

13 1. Meet at least twice a year or as otherwise called by the
14 Board; and

15 2. Advise the Board on matters pertaining to the licensure,
16 education, and continuing education requirements for and the
17 practice of anesthesiologist assistants in this state.

18 SECTION 9. AMENDATORY 59 O.S. 2021, Section 4000.1, as
19 amended by Section 1, Chapter 279, O.S.L. 2022 (59 O.S. Supp. 2022,
20 Section 4000.1), is amended to read as follows:

21 Section 4000.1. A. As used in this section:

22 1. "Substantially relate" means the nature of the criminal
23 conduct for which the person was convicted has a direct bearing on
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1 the fitness or ability to perform one or more of the duties or
2 responsibilities necessarily related to the occupation; and

3 2. "Pose a reasonable threat" means the nature of the criminal
4 conduct for which the person was convicted involved an act or threat
5 of harm against another and has a bearing on the fitness or ability
6 to serve the public or work with others in the occupation.

7 B. Notwithstanding any other provision of law, a conviction,
8 plea of guilty or nolo contendere, or pending criminal charge of a
9 crime may be grounds for the denial of an applicant for a state
10 license or state certification to practice an occupation only if the
11 underlying offense substantially relates to the duties and
12 responsibilities of the occupation and poses a reasonable threat to
13 public safety, health, or welfare. When making a determination
14 pursuant to this subsection, a licensing or certification authority
15 shall consider:

- 16 1. The nature and seriousness of the offense;
- 17 2. The amount of time that has passed since the offense;
- 18 3. The age of the person at the time the offense was committed;
- 19 4. Evidence relevant to the circumstances of the offense
20 including any aggravating or mitigating circumstances of social
21 conditions surrounding the commission of the offense;
- 22 5. The nature of the specific duties and responsibilities for
23 which the license or certification is required; and

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1 6. Any evidence of rehabilitation submitted by the applicant
2 including, but not limited to, evidence related to the person's
3 compliance with any conditions of community supervision, parole, or
4 mandatory supervision, the conduct and work activity of the person,
5 programming, or treatment undertaken by the person, and testimonials
6 or personal reference statements.

7 C. Notwithstanding any other provision of law, a licensing or
8 certification authority shall not deny a state license or state
9 certification to practice an occupation due to:

10 1. An arrest that was not followed by a valid plea of guilty or
11 nolo contendere unless charges are currently pending;

12 2. A conviction that has been sealed, or expunged;

13 3. A conviction or plea of guilty or nolo contendere for which
14 more than five (5) years have elapsed since the date of conviction,
15 plea, or release from incarceration, whichever is later, so long as
16 the person has not been convicted of a new crime. This paragraph
17 shall not apply to any conviction or plea of guilty or nolo
18 contendere for:

19 a. an offense enumerated in Section 571 of Title 57 of
20 the Oklahoma Statutes,

21 b. a felony involving domestic assault, domestic assault
22 and battery, or domestic abuse as defined in Section
23 644 of Title 21 of the Oklahoma Statutes,
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1 c. an offense that would require registration as a sex
2 offender pursuant to the Sex Offenders Registration
3 Act, or

4 d. any equivalent law enumerated in this paragraph from
5 another jurisdiction; or

6 4. A finding that an applicant lacks good character or fails to
7 meet any other similarly vague standard where a criminal conviction
8 is the basis for the finding.

9 D. Before a state licensing or state certification authority
10 makes a final determination that a criminal conviction, plea of
11 guilty or nolo contendere, or pending criminal charge may disqualify
12 an applicant for licensure, that authority shall provide written
13 notice of:

14 1. The specific offense that is the basis for the intended
15 denial;

16 2. The reasons the offense was determined to substantially
17 relate to the duties and responsibilities of the occupation and
18 posed a reasonable threat to public safety, health, or welfare,
19 including findings for each of the factors in subsection B of this
20 section that the licensing or certification authority deemed
21 relevant to the determination; and

22 3. The right to submit additional evidence relevant to each of
23 the factors listed in subsection B of this section within thirty
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1 (30) days, which the licensing or certification authority shall
2 consider before issuing a final determination.

3 E. A final determination that a criminal conviction, plea of
4 guilty or nolo contendere, or pending criminal charge may prevent a
5 person from receiving a license shall be in writing and include
6 notice of the right to appeal the determination pursuant to the
7 Administrative Procedures Act, or a more specific statutory
8 authority, and notice of the earliest date the applicant may reapply
9 for a license.

10 F. A person with a criminal history record may request a
11 determination of whether his or her criminal history record may
12 disqualify him or her from obtaining the desired license or
13 certification in the occupation from a state licensing or state
14 certification authority at any time, including before obtaining any
15 required education or training for such occupation. The request
16 shall be in writing and shall include either a copy of the person's
17 criminal history record with explanation of each conviction
18 mentioned in the criminal history record or a statement describing
19 each criminal conviction including the date of each conviction, the
20 court of jurisdiction and the sentence imposed. The person may
21 include a statement with his or her request describing additional
22 information for consideration by the licensing or certification
23 authority including, but not limited to, information relevant to any
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1 of the factors for consideration described in subsection B of this
2 section.

3 G. Upon receipt of a written request for consideration of a
4 criminal history record for an occupation as provided in subsection
5 F of this section, the licensing or certification authority shall
6 evaluate the request and make a determination based upon the
7 information provided in such request whether the stated conviction
8 is a disqualifying offense for the occupation. A notice of the
9 determination shall be issued to the petitioner within sixty (60)
10 days from the date such request was received by the licensing or
11 certification authority; except, however, a licensing or
12 certification authority regulating fifty thousand or more members in
13 its occupation shall be allowed ninety (90) days to make its initial
14 determination and issue notice to the requestor.

15 H. A determination made pursuant to subsection F of this
16 subsection that a person may not be disqualified for licensure or
17 certification due to criminal history shall be binding upon a
18 licensing or certification authority unless, at the time a full
19 application for a license is submitted, the applicant has
20 subsequently pled guilty or nolo contendere to a crime, has pending
21 criminal charges, or has previously undisclosed criminal
22 convictions.

23 I. The notice of a determination made pursuant to subsection F
24 of this section shall be in writing and mailed to the requestor at

1 the address provided in his or her request, and shall contain the
2 following statements:

3 1. Whether the person is eligible for licensure or
4 certification in the occupation at the current time based upon the
5 information submitted by the requestor;

6 2. Whether there is a disqualifying offense that would
7 disqualify the person from engaging in the occupation at the current
8 time and a statement identifying such offense in the criminal
9 history record or information submitted for consideration;

10 3. Any actions the person may take to remedy a
11 disqualification, if any;

12 4. The earliest date the person may submit another request for
13 consideration, if any; and

14 5. A statement that the determination may be rescinded if, at
15 the time a full application for a license is submitted, the
16 applicant has subsequently pled guilty or nolo contendere to a
17 crime, has pending criminal charges, or has previously undisclosed
18 criminal convictions.

19 J. A state entity charged with oversight of an occupational
20 license or certification may promulgate forms for requests for
21 determinations for the occupation as authorized in subsection F of
22 this section. Each state licensing or certification authority may
23 charge a fee not to exceed Ninety-five Dollars (\$95.00) for each
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1 initial determination of eligibility it makes for the occupation
2 based upon the information provided by the requestor.

3 K. Each state licensing or state certification authority shall
4 include in its application for a license or certification and
5 publish on its public website the following information:

6 1. Whether the criminal offenses of applicants may be used as a
7 basis for denial;

8 2. If criminal history may be used as a basis for denial as
9 listed in subsection B of this section, which offenses the licensing
10 or certification authority shall consider; and

11 3. Notice of the right to request a determination pursuant to
12 subsection F of this section.

13 L. Each state licensing or state certification authority
14 authorized to consider the criminal conviction of an applicant shall
15 annually provide to the Legislature, and publish on its public
16 website, the following:

17 1. The number of license applications received;

18 2. The number of applications that resulted in a license being
19 granted;

20 3. The number of applications that resulted in a license being
21 denied;

22 4. The number of applications that were denied due to criminal
23 history;

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1 5. A list of criminal offenses reported by individuals who were
2 granted a license;

3 6. A list of criminal offenses reported by individuals who were
4 denied a license due to criminal history along with the time elapsed
5 since the commission of the offense; and

6 7. The number of petitions received by the licensing or
7 certification authority pursuant to subsection F of this section.

8 M. The provisions of this section shall not be construed to
9 apply to the Council on Law Enforcement Education and Training, the
10 Bail Bonds Division of the ~~Oklahoma~~ Insurance Department, the State
11 Board of Education, the State Board of Medical Licensure and
12 Supervision, or individuals applying to these authorities for
13 licensure or certification.

14 SECTION 10. This act shall become effective November 1, 2023.

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16 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 04/13/2023 -
17 DO PASS.

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