

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 721

By: Yen

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5  
6 AS INTRODUCED

7 An Act relating to medical practice; amending 59 O.S.  
8 2011, Section 509, which relates to unprofessional  
9 conduct; broadening grounds for unprofessional  
10 conduct; and providing an effective date.

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

12 SECTION 1. AMENDATORY 59 O.S. 2011, Section 509, is  
13 amended to read as follows:

14 Section 509. The words "unprofessional conduct" as used in  
15 Sections 481 through 514 of this title are hereby declared to  
16 include, but shall not be limited to, the following:

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

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

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

7        7. Conviction or confession of a crime involving violation of:

8            a. the antinarcotic or prohibition laws and regulations  
9                    of the federal government,

10           b. the laws of this state, or

11           c. State Board of Health rules;

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

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

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

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

4           12. Prescribing or administering a drug or treatment without  
5 sufficient examination and the establishment of a valid physician-  
6 patient relationship;

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

11           14. Aiding or abetting, directly or indirectly, the practice of  
12 medicine by any person not duly authorized under the laws of this  
13 state;

14           15. The inability to practice medicine with reasonable skill  
15 and safety to patients by reason of age, illness, drunkenness,  
16 excessive use of drugs, narcotics, chemicals, or any other type of  
17 material or as a result of any mental or physical condition. In  
18 enforcing this subsection the State Board of Medical Licensure and  
19 Supervision may, upon probable cause, request a physician to submit  
20 to a mental or physical examination by physicians designated by it.  
21 If the physician refuses to submit to the examination, the Board  
22 shall issue an order requiring the physician to show cause why the  
23 physician will not submit to the examination and shall schedule a  
24 hearing on the order within thirty (30) days after notice is served

1 on the physician. The physician shall be notified by either  
2 personal service or by certified mail with return receipt requested.  
3 At the hearing, the physician and the physician's attorney are  
4 entitled to present any testimony and other evidence to show why the  
5 physician should not be required to submit to the examination.  
6 After a complete hearing, the Board shall issue an order either  
7 requiring the physician to submit to the examination or withdrawing  
8 the request for examination. The medical license of a physician  
9 ordered to submit for examination may be suspended until the results  
10 of the examination are received and reviewed by the Board;

11 16. Prescribing, dispensing or administering of controlled  
12 substances or narcotic drugs in excess of the amount considered good  
13 medical practice, or prescribing, dispensing or administering  
14 controlled substances or narcotic drugs without medical need in  
15 accordance with published standards;

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

19 18. Failure to maintain an office record for each patient which  
20 accurately reflects the evaluation, treatment, and medical necessity  
21 of treatment of the patient;

22 19. Failure to provide necessary ongoing medical treatment when  
23 a doctor-patient relationship has been established, which  
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1 relationship can be severed by either party providing a reasonable  
2 period of time is granted; or

3 20. 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 SECTION 2. This act shall become effective November 1, 2017.

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