

1 ENGROSSED SENATE
2 BILL NO. 876

By: McCortney of the Senate

3 and

4 Caldwell (Chad) of the
5 House

6 [State Board of Medical Licensure and Supervision -
7 codification - effective date]
8
9

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

11 SECTION 1. AMENDATORY 59 O.S. 2011, Section 487, is
12 amended to read as follows:

13 Section 487. A. The State Board of Medical Licensure and
14 Supervision may appoint the secretary to serve as Medical Advisor or
15 hire a physician as Medical Advisor to the Board and the Board
16 staff. The Board may hire the secretary as an employee of the Board
17 at such hours of employment and compensation as determined by the
18 Board. The Board may hire a licensed allopathic physician to serve
19 as the secretary- or medical advisor, or both, to the Board and its
20 staff. This position shall be in the exempt unclassified service,
21 as provided for in subsection B of Section 840-5.5 of Title 74 of
22 the Oklahoma Statutes. The secretary shall not be a member of the
23 Board and shall not vote on Board actions.
24

1 B. The secretary of the Board shall preserve a true record of
2 the official proceedings of the meetings of the Board. He or she
3 shall also preserve a record of physicians licensed, applying for
4 such license or applying for reinstatement of such license in this
5 state showing:

6 1. Age;

7 2. Ethnic origin;

8 3. Sex;

9 4. Place of practice and residence;

10 5. The time spent in premedical and medical study, together
11 with the names of the schools attended, and the date of graduation
12 therefrom, with the degrees granted;

13 6. The grades made in examination for license or grades filed
14 in application therefor; and

15 7. A record of the final disposition of each application for
16 licensure.

17 The secretary of the Board shall, on or before the first day of
18 May in each year, transmit an official copy of ~~said~~ the register for
19 the preceding calendar year, to the Secretary of State for permanent
20 record, a certified copy of which shall be admitted as evidence in
21 all courts of the state.

22 SECTION 2. AMENDATORY 59 O.S. 2011, Section 488, is
23 amended to read as follows:

1 Section 488. A. The Board may hold regular meetings at times
2 to be fixed by the president and secretary of the Board in
3 accordance with the provisions of the Oklahoma Open Meeting Act. In
4 addition, the president and secretary may call such special and
5 other meetings in accordance with the provisions of the Oklahoma
6 Open Meeting Act. A majority of the members of the Board shall
7 constitute a quorum for the transaction of business but a less
8 number may adjourn from time to time until a quorum is present.

9 B. No meeting as provided for in subsection A of this section
10 shall be required for the determination of the qualifications of an
11 applicant for a ~~certificate~~ license issued pursuant to the
12 provisions of Section 495 of this title. Each member of the Board
13 authorized to vote on licensure may review the qualifications of the
14 applicant during times other than when a regular or special meeting
15 is held, to determine the sufficiency of ~~said~~ the qualifications.
16 Each member shall notify the secretary of his or her findings, in
17 writing. The provisions of this subsection shall not be construed
18 to prohibit the Board from reviewing the qualifications of an
19 applicant for licensure during any regular or special meeting of the
20 Board.

21 C. No meeting of an Advisory Committee under the jurisdiction
22 of the Board under this title shall be required for the
23 determination of the qualifications of an applicant for a license.
24 Each member of the Advisory Committee authorized to make

1 recommendations on licensure may review the qualifications of the
2 applicant during times other than when a regular or special Advisory
3 Committee meeting is held, to determine the sufficiency of the
4 qualifications. Each member of the Advisory Committee shall notify
5 the Board Secretary of his or her recommendations, in writing. The
6 provisions of this subsection shall not be construed to prohibit the
7 Advisory Committee from reviewing the qualifications of an applicant
8 for licensure during any regular or special meeting of the Advisory
9 Committee.

10 SECTION 3. AMENDATORY 59 O.S. 2011, Section 495a.1, as
11 amended by Section 1, Chapter 175, O.S.L. 2018 (59 O.S. Supp. 2018,
12 Section 495a.1) is amended to read as follows:

13 Section 495a.1. A. At regular intervals set by the Board, no
14 less than one time per annum, each licensee licensed by ~~this act~~ the
15 Oklahoma Allopathic Medical and Surgical Licensure and Supervision
16 Act shall demonstrate to the Board the licensee's continuing
17 qualification to practice medicine and surgery. The licensee shall
18 apply for license reregistration on a form or forms provided by the
19 Board, which shall be designed to require the licensee to update or
20 add to the information in the Board's file relating to the licensee
21 and his or her professional activity. It shall also require the
22 licensee to report to the Board the following information:

23 1. Any action taken against the licensee for acts or conduct
24 similar to acts or conduct described in ~~this act~~ the Oklahoma

1 Allopathic Medical and Surgical Licensure and Supervision Act as
2 grounds for disciplinary action by:

- 3 a. any jurisdiction or authority (United States or
4 foreign) that licenses or authorizes the practice of
5 medicine and surgery,
- 6 b. any peer review body,
- 7 c. any health care institution,
- 8 d. any professional medical society or association,
- 9 e. any law enforcement agency,
- 10 f. any court, or
- 11 g. any governmental agency;

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

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

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

21 5. The licensee's voluntary resignation from the medical staff
22 of any health care institution or voluntary limitation of the
23 licensee's staff privileges at such an institution if that action
24 occurred while the licensee was under formal or informal

1 investigation by the institution or a committee thereof for any
2 reason related to alleged medical incompetence, unprofessional
3 conduct, or mental or physical impairment;

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

10 7. Whether the licensee has abused or has been addicted to or
11 treated for addiction to alcohol or any chemical substance during
12 the previous registration period, unless such person is in a
13 rehabilitation program approved by the Board;

14 8. Whether the licensee has had any physical injury or disease
15 or mental illness during the previous registration period that
16 affected or interrupted his or her practice of medicine and surgery;
17 and

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

22 B. The Board may require continuing medical education for
23 license reregistration and require documentation of that education.

24 The Board shall promulgate rules on the specific requirements of the

1 amount of continuing medical education needed for reregistration.
2 Failure to meet the requirements in the allotted time may result in
3 the licensee being required to pay a nondisciplinary fine by the
4 Board Secretary of up to but not more than One Thousand Dollars
5 (\$1,000.00).

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

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

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

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

1 SECTION 4. AMENDATORY 59 O.S. 2011, Section 503, as
2 amended by Section 1, Chapter 176, O.S.L. 2014 (59 O.S. Supp. 2018,
3 Section 503), is amended to read as follows:

4 Section 503. The State Board of Medical Licensure and
5 Supervision may suspend, revoke or order any other appropriate
6 sanctions against the license of any physician or surgeon holding a
7 license to practice in this state for unprofessional conduct, but no
8 such suspension, revocation or other penalty shall be made until the
9 licensee is cited to appear for hearing. No such citation shall be
10 issued except upon sworn complaint filed with the secretary of the
11 Board charging the licensee with having been guilty of
12 unprofessional conduct and setting forth the particular act or acts
13 alleged to constitute unprofessional conduct. In the event it comes
14 to the attention of the Board that a violation of the rules of
15 professional conduct may have occurred, even though a formal
16 complaint or charge may not have been filed, the Board staff may
17 conduct an investigation of the possible violation, and may upon its
18 own motion institute a formal complaint. In the course of the
19 investigation persons appearing before the Board may be required to
20 testify under oath. Upon the filing of a complaint, either by an
21 individual or the Board staff as provided herein, the citation must
22 forthwith be issued by the secretary of the Board over the signature
23 of the secretary and seal of the Board, setting forth the complaint
24 of unprofessional conduct, and giving due notice of the time and

1 place of the hearing by the Board. ~~The citation shall be made~~
2 ~~returnable at the next regular meeting of the Board occurring at~~
3 ~~least thirty (30) days after the service of the citation. In any~~
4 case in which a physician disputes allegations made in a complaint,
5 the matter shall be set and heard by the Board at the next regular
6 meeting of the Board occurring at least thirty (30) calendar days
7 after the day of service of the citation, exclusive of the day of
8 service, but will be heard not later than the next regular meeting
9 of the Board occurring after ninety (90) calendar days after service
10 of the citation, exclusive of the day of service. No continuance
11 may be granted by the Board on its own motion or at the request of
12 the defendant or his or her counsel or at the request of the
13 attorney for the state, unless the record of the case, either orally
14 or in writing, sets forth a finding that the ends of justice served
15 by the granting of such continuance outweigh the best interest of
16 the public and the defendant in a speedy hearing. The defendant
17 shall file a written answer under oath with the secretary of the
18 Board within twenty (20) calendar days after the service of the
19 citation, exclusive of the day of service. The secretary of the
20 Board may extend the time of answer upon satisfactory showing that
21 the defendant is for reasonable cause unable to answer within the
22 twenty (20) calendar days exclusive of the day of service, but in no
23 case shall the time be extended beyond the date of the next regular
24 meeting of the Board, unless a continuance is granted by the Board.

1 SECTION 5. AMENDATORY 59 O.S. 2011, Section 503.1, is
2 amended to read as follows:

3 Section 503.1. The Secretary of the Board, upon concurrence of
4 the President of the Board that an emergency exists for which the
5 immediate suspension of a license is imperative for the public
6 health, safety and welfare, may conduct a hearing as contemplated by
7 Section 314 of Title 75 of the Oklahoma Statutes ~~to~~ and may, upon
8 probable cause, suspend temporarily the license of any person under
9 the jurisdiction of the Board.

10 SECTION 6. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 503.2 of Title 59, unless there
12 is created a duplication in numbering, reads as follows:

13 A. The State Board of Medical Licensure and Supervision may
14 promulgate rules to create administrative remedies for licensee
15 violations of statutory or regulatory prescribed unprofessional
16 conduct.

17 B. The Board is authorized to prescribe by rule administrative
18 remedies, disciplinary actions and administrative procedures to
19 provide remedies and disciplinary actions for licensee violations of
20 statutory or regulatory prescribed unprofessional conduct, to
21 include fines up to the limits otherwise prescribed by statute or
22 rule.

23 C. Any such administrative action rules promulgated by the
24 Board shall provide procedure:

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

3 2. For procedures for resolution of any such contest or
4 dispute; and

5 3. For appropriate protection of private information consistent
6 with state and federal law.

7 SECTION 7. AMENDATORY 59 O.S. 2011, Section 508, is
8 amended to read as follows:

9 Section 508. A. Whenever any license has been procured or
10 obtained by fraud or misrepresentation on the licensure application,
11 or was issued by mistake; or if the diploma of graduation in
12 medicine and surgery or any other credentials required as necessary
13 to the admission to the examination for license were obtained by
14 fraud or misrepresentation on the licensure application, or were
15 issued by mistake; or if the reciprocity endorsement from another
16 state, upon which a license has been issued in this state, was
17 procured by fraud or misrepresentation, or was issued by mistake, it
18 shall be the duty of the State Board of Medical Licensure and
19 Supervision to take appropriate disciplinary action in the same
20 manner as is provided by the Oklahoma Allopathic Medical and
21 Surgical Licensure and Supervision Act for the disciplining of
22 unprofessional conduct or in cases of unintentional
23 misrepresentation of information on the licensure application, the
24 State Board of Medical Licensure and Supervision delegates to the

1 Board Secretary the ability to issue a nondisciplinary
2 administrative fine of up to but not more than One Thousand Dollars
3 (\$1,000.00) per licensure applicant or to require a continuing
4 medical education course in ethics, or to take both actions, to
5 impress upon the applicant the seriousness of completing the
6 application truthfully.

7 B. Use of fraudulent information to obtain a license shall be a
8 misdemeanor offense, punishable, upon conviction, by the imposition
9 of a fine of not less than One Thousand Dollars (\$1,000.00), or by
10 imprisonment in the county jail for not more than one (1) year, or
11 by both such fine and imprisonment.

12 SECTION 8. AMENDATORY 59 O.S. 2011, Section 509, as
13 amended by Section 2, Chapter 175, O.S.L. 2018 (59 O.S. Supp. 2018,
14 Section 509), is amended to read as follows:

15 Section 509. The words "unprofessional conduct" as used in
16 Sections 481 through 518.1 of this title are hereby declared to
17 include, but shall not be limited to, the following:

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

24

1 4. Habitual intemperance or the habitual use of habit-forming
2 drugs;

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

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

9 7. Conviction or confession of, or plea of guilty, nolo
10 contendere, no contest or Alford plea to a crime involving violation
11 of:

12 a. the antinarcotic or prohibition laws and regulations
13 of the federal government,

14 b. the laws of this state, ~~or~~

15 c. State Board of Health rules, or

16 d. a determination by a judge or jury;

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

19 9. The commission of any act which is a violation of the
20 criminal laws of any state when such act is connected with the
21 physician's practice of medicine. A complaint, indictment or
22 confession of a criminal violation shall not be necessary for the
23 enforcement of this provision. Proof of the commission of the act
24

1 while in the practice of medicine or under the guise of the practice
2 of medicine shall be unprofessional conduct;

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

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

8 12. Prescribing or administering a drug or treatment without
9 sufficient examination and the establishment of a valid physician-
10 patient relationship and not prescribing in a safe, medically-
11 accepted manner;

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

16 14. Aiding or abetting, directly or indirectly, the practice of
17 medicine by any person not duly authorized under the laws of this
18 state;

19 15. The inability to practice medicine with reasonable skill
20 and safety to patients by reason of age, illness, drunkenness,
21 excessive use of drugs, narcotics, chemicals, or any other type of
22 material or as a result of any mental or physical condition. In
23 enforcing this ~~subsection~~ section the State Board of Medical
24 Licensure and Supervision may, upon probable cause, request a

1 physician to submit to a mental or physical examination by
2 physicians designated by it. If the physician refuses to submit to
3 the examination, the Board shall issue an order requiring the
4 physician to show cause why the physician will not submit to the
5 examination and shall schedule a hearing on the order within thirty
6 (30) days after notice is served on the physician, exclusive of the
7 day of service. The physician shall be notified by either personal
8 service or by certified mail with return receipt requested. At the
9 hearing, the physician and the physician's attorney are entitled to
10 present any testimony and other evidence to show why the physician
11 should not be required to submit to the examination. After a
12 complete hearing, the Board shall issue an order either requiring
13 the physician to submit to the examination or withdrawing the
14 request for examination. The medical license of a physician ordered
15 to submit for examination may be suspended until the results of the
16 examination are received and reviewed by the Board;

- 17 16. a. Prescribing, dispensing or administering of controlled
18 substances or narcotic drugs in excess of the amount
19 considered good medical practice,
20 b. prescribing, dispensing or administering controlled
21 substances or narcotic drugs without medical need in
22 accordance with pertinent licensing board standards,
23 or
24

1 c. prescribing, dispensing or administering opioid drugs
2 in excess of the maximum dosage authorized under
3 Section ~~5 of this act~~ 2-309I of Title 63 of the
4 Oklahoma Statutes;

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

8 18. Failure to maintain an office record for each patient which
9 accurately reflects the evaluation, treatment, and medical necessity
10 of treatment of the patient;

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

15 20. Failure to provide a proper and safe medical facility
16 setting and qualified assistive personnel for a recognized medical
17 act, including but not limited to an initial in-person patient
18 examination, office surgery, diagnostic service or any other medical
19 procedure or treatment. Adequate medical records to support
20 diagnosis, procedure, treatment or prescribed medications must be
21 produced and maintained.

22 SECTION 9. AMENDATORY 59 O.S. 2011, Section 509.1, is
23 amended to read as follows:

24 Section 509.1.

1 A. RANGE OF ACTIONS: The State Board of Medical Licensure and
2 Supervision may impose disciplinary actions in accordance with the
3 severity of violation of the Oklahoma Allopathic Medical and
4 Surgical Licensure and Supervision Act. Disciplinary actions may
5 include, but are not limited to the following:

6 1. Revocation of the medical license with or without the right
7 to reapply;

8 2. Suspension of the medical license;

9 3. Probation;

10 4. Stipulations, limitations, restrictions, and conditions
11 relating to practice;

12 5. Censure, including specific redress, if appropriate;

13 6. Reprimand;

14 7. A period of free public or charity service;

15 8. Satisfactory completion of an educational, training, and/or
16 treatment program or programs; and

17 9. Administrative fines of up to Five Thousand Dollars
18 (\$5,000.00) per violation.

19 Provided, as a condition of disciplinary action sanctions, the Board
20 may impose as a condition of any disciplinary action, the payment of
21 costs expended by the Board for any legal fees and costs and
22 probation and monitoring fees including, but not limited to, staff
23 time, salary and travel expense, witness fees and attorney fees.

1 The Board may take such actions singly or in combination as the
2 nature of the violation requires.

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

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

14 D. DISCIPLINARY ACTION AGAINST LICENSEES:

15 1. The Board shall promulgate rules describing acts of
16 unprofessional or unethical conduct by physicians pursuant to the
17 Oklahoma Allopathic Medical and Surgical Licensure and Supervision
18 Act; and

19 2. Grounds for Action: The Board may take disciplinary action
20 for unprofessional or unethical conduct as deemed appropriate based
21 upon the merits of each case and as set out by rule. The Board
22 shall not revoke the license of a person otherwise qualified to
23 practice allopathic medicine within the meaning of the Oklahoma
24 Allopathic Medical and Surgical Licensure and Supervision Act solely

1 because the person's practice or a therapy is experimental or
2 nontraditional.

3 Reports of all disciplinary action provided for in this section
4 will be available to the public upon request. Investigative files
5 shall remain confidential.

6 E. SURRENDER IN LIEU OF PROSECUTION:

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

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

1 d. specifically admitting to and describing the
2 misconduct.

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

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

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

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

5 SECTION 10. AMENDATORY 59 O.S. 2011, Section 512, as
6 amended by Section 3, Chapter 176, O.S.L. 2014 (59 O.S. Supp. 2018,
7 Section 512), is amended to read as follows:

8 Section 512. A. The secretary of the State Board of Medical
9 Licensure and Supervision shall be paid an annual salary in an
10 amount fixed by the Board. The Board shall have the authority to
11 expend such funds as are necessary in carrying out the duties of the
12 Board and shall have the authority to hire all necessary personnel,
13 at salaries to be fixed by the Board, as the Board shall deem
14 necessary. The Board shall have the authority to hire attorneys to
15 represent the Board in all legal matters and to assist authorized
16 state and county officers in prosecuting or restraining violations
17 of Section 481 et seq. of this title, and to fix the salaries or per
18 diem of ~~said~~ the attorneys.

19 B. The Board shall have the authority to hire one or more
20 investigators as may be necessary to carry out the provisions of
21 ~~this act~~ the Oklahoma Allopathic Medical and Surgical Licensure and
22 Supervision Act at an annual salary to be fixed by the Board. Such
23 investigators may be commissioned peace officers of this state. In
24 addition such investigators shall have the authority and duty to

1 investigate and inspect the records of all persons in order to
2 determine whether or not a disciplinary action for unprofessional
3 misconduct is warranted or whether the narcotic laws or the
4 dangerous drug laws have been complied with.

5 C. 1. For purposes of this section, investigators shall be
6 peace officers certified by the Council on Law Enforcement Education
7 and Training and shall have statewide jurisdiction to perform the
8 duties authorized by this section. In addition, the investigators
9 shall have all the powers now or hereafter vested by law in peace
10 officers.

11 2. Investigators for the Oklahoma State Board of Medical
12 Licensure and Supervision shall perform such services as are
13 necessary in the investigation of criminal activity or preparation
14 of administrative actions.

15 3. Any licensee or applicant for license subject to the
16 provisions of the Oklahoma Allopathic Medical and Surgical Licensure
17 and Supervision Act shall be deemed to have given consent to any
18 duly authorized investigator of the Board to access, enter or
19 inspect the records, either on-site or at the Board office, or
20 facilities of such licensee or applicant subject to the Oklahoma
21 Allopathic Medical and Surgical Licensure and Supervision Act.
22 Refusal to allow such access, entry or inspection may constitute
23 grounds for the denial, nonrenewal, suspension or revocation of a
24 license. Upon refusal of such access, entry or inspection, pursuant

1 to this section, the Board or a duly authorized representative may
2 make application for and obtain a search warrant from the district
3 court where the facility or records are located to allow such
4 access, entry or inspection.

5 D. 1. The Board is specifically authorized to contract with
6 state agencies or other bodies to perform investigative services or
7 other administrative services at a rate set by the Board.

8 2. The Board is authorized to pay the travel expenses of Board
9 employees and members in accordance with the State Travel
10 Reimbursement Act.

11 3. The expenditures authorized herein to include capital
12 purchases shall not be a charge against the state, but the same
13 shall be paid solely from the Board's depository fund.

14 SECTION 11. AMENDATORY 59 O.S. 2011, Section 513, is
15 amended to read as follows:

16 Section 513. A. 1. The State Board of Medical Licensure and
17 Supervision is hereby given quasi-judicial powers while sitting as a
18 Board for the purpose of revoking, suspending or imposing other
19 disciplinary actions upon the license of physicians or surgeons of
20 this state, and appeals from its decisions shall be taken to the
21 Supreme Court of this state within thirty (30) days of the date that
22 a copy of the decision is mailed to the appellant, as shown by the
23 certificate of mailing attached to the decision.

24

1 2. The license of any physician or surgeon who has been
2 convicted of any felony in or without the State of Oklahoma and
3 whether in a state or federal court, may be suspended by the Board
4 upon the submission thereto of a certified copy of the judgment and
5 sentence of the trial court and the certificate of the clerk of the
6 court of the conviction.

7 3. Upon proof of a ~~final~~ felony conviction by the courts ~~and~~
8 ~~after exhaustion of the appellate process~~, the Board shall revoke
9 the physician's license. If the felony conviction is overturned on
10 appeal and no other appeals are sought, the Board shall restore the
11 license of the physician. ~~Suspension or revocation of the license~~
12 ~~of any person convicted of a felony on any other grounds than that~~
13 ~~of moral turpitude or the violation of the federal or state narcotic~~
14 ~~laws, shall be on the merits of the particular case, but the court~~
15 Court records in the trial of such case when of such a conviction
16 ~~has been had~~ shall be prima facie evidence of the conviction.

17 4. The Board shall also revoke and cancel the license of any
18 physician or surgeon who has been charged in a court of record of
19 this or other states of the United States or in the federal court
20 with the commission of a felony and who is a fugitive from justice,
21 upon the submission of a certified copy of the charge together with
22 a certificate from the clerk of the court that after the commitment
23 of the crime the physician or surgeon fled from the jurisdiction of
24 the court and is a fugitive from justice.

1 B. To the extent necessary to allow the Board the power to
2 enforce disciplinary actions imposed by the Board, in the exercise
3 of its authority, the Board may punish willful violations of its
4 orders and impose additional penalties as allowed by Section 509.1
5 of this title.

6 SECTION 12. AMENDATORY 59 O.S. 2011, Section 518.1, is
7 amended to read as follows:

8 Section 518.1. A. There is hereby established the Allied
9 Professional Peer Assistance Program to rehabilitate allied medical
10 professionals whose competency may be compromised because of the
11 abuse of drugs or alcohol, so that such allied medical professionals
12 can be treated and can return to or continue the practice of allied
13 medical practice in a manner which will benefit the public. The
14 program shall be under the supervision and control of the State
15 Board of Medical Licensure and Supervision.

16 B. The Board may appoint one or more peer assistance evaluation
17 advisory committees, hereinafter called the "allied peer assistance
18 committees". Each of these committees shall be composed of members,
19 the majority of which shall be licensed allied medical professionals
20 with expertise in chemical dependency. The allied peer assistance
21 committees shall function under the authority of the State Board of
22 Medical Licensure and Supervision in accordance with the rules of
23 the Board. The program may be one hundred percent (100%) outsourced
24 to professional groups specialized in this arena. The committee

1 members shall serve without pay, but may be reimbursed for the
2 expenses incurred in the discharge of their official duties in
3 accordance with the State Travel Reimbursement Act.

4 C. The Board may appoint and employ a qualified person or
5 persons to serve as program coordinators and shall fix such person's
6 compensation. The program may employ a director for purposes of
7 ongoing nonclerical administrative duties and shall fix the
8 director's compensation. The Board shall define the duties of the
9 program coordinators and director who shall report directly to the
10 Board.

11 D. The Board is authorized to adopt and revise rules, not
12 inconsistent with the Oklahoma Allopathic Medical and Surgical
13 Licensure and Supervision Act, as may be necessary to enable it to
14 carry into effect the provisions of this section.

15 E. A portion of licensing fees for each allied profession, not
16 to exceed Ten Dollars (\$10.00), may be used to implement and
17 maintain the Allied Professional Peer Assistance Program.

18 F. All monies paid pursuant to subsection E of this section
19 shall be deposited in an agency special account revolving fund under
20 the State Board of Medical Licensure and Supervision, and shall be
21 used for the general operating expenses of the Allied Professional
22 Peer Assistance Program, including payment of personal services.

23 G. Records and management information system of the
24 professionals enrolled in the Allied Professional Peer Assistance

1 Program and reports shall be maintained in the program office in a
2 place separate and apart from the records of the Board. The records
3 shall be made public only by subpoena and court order; provided
4 however, confidential treatment shall be cancelled upon default by
5 the professional in complying with the requirements of the program.

6 H. Any person making a report to the Board or to an allied peer
7 assistance committee regarding a professional suspected of
8 practicing allied medical practice while habitually intemperate or
9 addicted to the use of habit-forming drugs, or a professional's
10 progress or lack of progress in rehabilitation, shall be immune from
11 any civil or criminal action resulting from such reports, provided
12 such reports are made in good faith.

13 I. A professional's participation in the Allied Professional
14 Peer Assistance Program in no way precludes additional proceedings
15 by the Board for acts or omissions of acts not specifically related
16 to the circumstances resulting in the professional's entry into the
17 program. However, in the event the professional defaults from the
18 program, the Board may discipline the professional for those acts
19 which led to the professional entering the program.

20 J. The Executive Director of the Board shall suspend the
21 license immediately upon notification that the licensee has
22 defaulted from the Allied Professional Peer Assistance Program, and
23 shall assign a hearing date for the matter to be presented to the
24 Board.

1 K. All treatment information, whether or not recorded, and all
2 communications between a professional and therapist are both
3 privileged and confidential. In addition, the identity of all
4 persons who have received or are receiving treatment services shall
5 be considered confidential and privileged.

6 L. As used in this section, unless the context otherwise
7 requires:

8 1. "Board" means the State Board of Medical Licensure and
9 Supervision; and

10 2. "Allied peer assistance committee" means the peer assistance
11 evaluation advisory committee created in this section, which is
12 appointed by the State Board of Medical Licensure and Supervision to
13 carry out specified duties.

14 M. The Allied Professional Peer Assistance Program may contract
15 with outside entities for services that are not available to it or
16 can be obtained for a lesser cost through such a contract. The
17 contract shall be ratified by the Board.

18 SECTION 13. This act shall become effective November 1, 2019.

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1 Passed the Senate the 27th day of February, 2019.

2
3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2019.

7
8 _____
9 Presiding Officer of the House
10 of Representatives