

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 876

6 By: McCortney of the Senate

7 and

8 Caldwell (Chad) of the
9 House

10 COMMITTEE SUBSTITUTE

11 An Act relating to the State Board of Medical
12 Licensure and Supervision; amending 59 O.S. 2011,
13 Section 487, which relates to secretary; authorizing
14 Board to hire physician as Medical Advisor; amending
15 59 O.S. 2011, Section 488, which relates to meetings
16 of Board; modifying terminology; making language
17 gender-neutral; making certain meetings not required;
18 requiring certain notice; providing certain
19 construction; amending 59 O.S. 2011, Section 493.1,
20 as amended by Section 2, Chapter 280, O.S.L. 2013 (59
21 O.S. Supp. 2018, Section 493.1), which relates to
22 applicant documentation and qualifications; modifying
23 required documentation; amending 59 O.S. 2011,
24 Section 495a.1, as amended by Section 1, Chapter 175,
O.S.L. 2018 (59 O.S. Supp. 2018, Section 495a.1),
which relates to license registration; directing
Board to promulgate certain rules; setting certain
fine; amending 59 O.S. 2011, Section 503, as amended
by Section 1, Chapter 176, O.S.L. 2014 (59 O.S. Supp.
2018, Section 503), which relates to sanctions for
unprofessional conduct; modifying procedure pursuant
to sanctions; amending 59 O.S. 2011, Section 503.1,
which relates to emergency suspension of licensure;
modifying conditions under which Board may suspend
license; authorizing promulgation of rules; directing
contents of rules; amending 59 O.S. 2011, Section
508, which relates to revocation of licensure;

1 modifying conditions under which Board may issue
2 certain fine and require applicant to take certain
3 action; amending 59 O.S. 2011, Section 509, as
4 amended by Section 2, Chapter 175, O.S.L. 2018 (59
5 O.S. Supp. 2018, Section 509), which relates to
6 unprofessional conduct; modifying certain definition;
7 clarifying time period; amending 59 O.S. 2011,
8 Section 509.1, which relates to disciplinary actions;
9 providing that investigative files shall remain
10 confidential; amending 59 O.S. 2011, Section 512, as
11 amended by Section 3, Chapter 176, O.S.L. 2014 (59
12 O.S. Supp. 2018, Section 512), which relates to
13 salary of secretary; requiring certain investigators
14 to be certified peace officers; providing statewide
15 jurisdiction; requiring investigators to perform
16 certain duties; requiring licensees to cooperate with
17 investigators; broadening services the Board may
18 contract to perform; amending 59 O.S. 2011, Section
19 513, which relates to quasi-judicial powers of the
20 Board; modifying conditions under which the Board
21 shall revoke a license; amending 59 O.S. 2011,
22 Section 518.1, which relates to the Allied
23 Professional Peer Assistance Program; authorizing
24 program to employ director and fix salary;
authorizing Board to define duties of director;
authorizing program to contract with outside entities
for certain services; requiring contracts to be
ratified by the Board; updating statutory references;
providing for codification; and providing an
effective date.

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

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

Section 487. A. The State Board of Medical Licensure and
Supervision may appoint the secretary to serve as Medical Advisor or
hire a physician to serve as Medical Advisor to the Board and the
Board staff. The Board may hire the secretary as an employee of the

1 Board at such hours of employment and compensation as determined by
2 the Board. The Board may hire a licensed allopathic physician to
3 serve as the ~~secretary-medical~~ secretary or medical advisor, or
4 both, to the Board and its staff. This position shall be in the
5 exempt unclassified service, as provided for in subsection B of
6 Section 840-5.5 of Title 74 of the Oklahoma Statutes. The secretary
7 shall not be a member of the Board and shall not vote on Board
8 actions.

9 B. The secretary of the Board shall preserve a true record of
10 the official proceedings of the meetings of the Board. He or she
11 shall also preserve a record of physicians licensed, applying for
12 such license or applying for reinstatement of such license in this
13 state showing:

- 14 1. Age;
- 15 2. Ethnic origin;
- 16 3. Sex;
- 17 4. Place of practice and residence;
- 18 5. The time spent in premedical and medical study, together
19 with the names of the schools attended, and the date of graduation
20 therefrom, with the degrees granted;
- 21 6. The grades made in examination for license or grades filed
22 in application therefor; and
- 23 7. A record of the final disposition of each application for
24 licensure.

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

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

8 Section 488. A. The State Board of Medical Licensure and
9 Supervision may hold regular meetings at times to be fixed by the
10 president and secretary of the Board in accordance with the
11 provisions of the Oklahoma Open Meeting Act. In addition, the
12 president and secretary may call such special and other meetings in
13 accordance with the provisions of the Oklahoma Open Meeting Act. A
14 majority of the members of the Board shall constitute a quorum for
15 the transaction of business but a less number may adjourn from time
16 to time until a quorum is present.

17 B. No meeting as provided for in subsection A of this section
18 shall be required for the determination of the qualifications of an
19 applicant for a ~~certificate~~ license issued pursuant to the
20 provisions of Section 495 of this title. Each member of the Board
21 authorized to vote on licensure may review the qualifications of the
22 applicant during times other than when a regular or special meeting
23 is held, to determine the sufficiency of ~~said~~ the qualifications.
24 Each member shall notify the secretary of his or her findings, in

1 writing. The provisions of this subsection shall not be construed
2 to prohibit the Board from reviewing the qualifications of an
3 applicant for licensure during any regular or special meeting of the
4 Board.

5 C. No meeting of the Advisory Committee under the jurisdiction
6 of the Board under this title shall be required for the
7 determination of the qualifications of an applicant for a license.
8 Each member of the Advisory Committee authorized to make
9 recommendations on licensure may review the qualifications of the
10 applicant during times other than when a regular or special Advisory
11 Committee meeting is held, to determine the sufficiency of the
12 qualifications. Each member of the Advisory Committee shall notify
13 the Board secretary of his or her recommendations, in writing. The
14 provisions of this subsection shall not be construed to prohibit the
15 Advisory Committee from reviewing the qualifications of an applicant
16 for licensure during any regular or special meeting of the Advisory
17 Committee.

18 SECTION 3. AMENDATORY 59 O.S. 2011, Section 493.1, as
19 amended by Section 2, Chapter 280, O.S.L. 2013 (59 O.S. Supp. 2018,
20 Section 493.1), is amended to read as follows:

21 Section 493.1 A. An applicant to practice medicine and surgery
22 in this state shall provide to the State Board of Medical Licensure
23 and Supervision and attest to the following information and
24 documentation in a manner required by the Board:

- 1 1. The applicant's full name and all aliases or other names
2 ever used, current address, Social Security number and date and
3 place of birth;
- 4 2. A ~~signed and notarized~~ photograph of the applicant, taken
5 within the previous twelve (12) months;
- 6 3. ~~Originals of all~~ All documents and credentials required by
7 the Board, or notarized photocopies or other verification acceptable
8 to the Board of such documents and credentials;
- 9 4. A list of all jurisdictions, United States or foreign, in
10 which the applicant is licensed or has applied for licensure to
11 practice medicine and surgery or is authorized or has applied for
12 authorization to practice medicine and surgery;
- 13 5. A list of all jurisdictions, United States or foreign, in
14 which the applicant has been denied licensure or authorization to
15 practice medicine and surgery or has voluntarily surrendered a
16 license or an authorization to practice medicine and surgery;
- 17 6. A list of all sanctions, judgments, awards, settlements, or
18 convictions against the applicant in any jurisdiction, United States
19 or foreign, that would constitute grounds for disciplinary action
20 under this act or the Board's rules;
- 21 7. A detailed educational history, including places,
22 institutions, dates, and program descriptions, of all his or her
23 education, including all college, preprofessional, professional, and
24 professional graduate education;

1 8. A detailed chronological life history from age eighteen (18)
2 years to the present, including places and dates of residence,
3 employment, and military service (United States or foreign) and all
4 professional degrees or licenses or certificates now or ever held;
5 and

6 9. Any other information or documentation specifically
7 requested by the Board that is related to the applicant's ability to
8 practice medicine and surgery.

9 B. The applicant shall possess a valid degree of Doctor of
10 Medicine from a medical college or school located in the United
11 States, its territories or possessions, or Canada that was approved
12 by the Board or by a private nonprofit accrediting body approved by
13 the Board at the time the degree was conferred. The application
14 shall be considered by the Board based upon the product and process
15 of the medical education and training.

16 C. The applicant shall have satisfactorily completed twelve
17 (12) months of progressive postgraduate medical training approved by
18 the Board or by a private nonprofit accrediting body approved by the
19 Board in an institution in the United States, its territories or
20 possessions, or in programs in Canada, England, Scotland, Ireland,
21 Australia or New Zealand approved by the Board or by a private
22 nonprofit accrediting body approved by the Board.

23 D. The applicant shall submit a history from the Administration
24 of the Medical School from which the applicant graduated of any

1 suspension, probation, or disciplinary action taken against the
2 applicant while a student at that institution.

3 E. The applicant shall have passed medical licensing
4 examination(s) satisfactory to the Board.

5 F. The applicant shall have demonstrated a familiarity with all
6 appropriate statutes and rules and regulations of this state and the
7 federal government relating to the practice of medicine and surgery.

8 G. The applicant shall be physically, mentally, professionally,
9 and morally capable of practicing medicine and surgery in a manner
10 reasonably acceptable to the Board and in accordance with federal
11 law and shall be required to submit to a physical, mental, or
12 professional competency examination or a drug dependency evaluation
13 if deemed necessary by the Board.

14 H. The applicant shall not have committed or been found guilty
15 by a competent authority, United States or foreign, of any conduct
16 that would constitute grounds for disciplinary action under this act
17 or rules of the Board. The Board may modify this restriction for
18 cause.

19 I. Upon request by the Board, the applicant shall make a
20 personal appearance before the Board or a representative thereof for
21 interview, examination, or review of credentials. At the discretion
22 of the Board, the applicant shall be required to present his or her
23 original medical education credentials for inspection during the
24 personal appearance.

1 J. The applicant shall be held responsible for verifying to the
2 satisfaction of the Board the identity of the applicant and the
3 validity of all credentials required for his or her medical
4 licensure. The Board may review and verify medical credentials and
5 screen applicant records through recognized national physician
6 information services.

7 K. The applicant shall have paid all fees and completed and
8 attested to the accuracy of all application and information forms
9 required by the Board.

10 L. Grounds for the denial of a license shall include:

11 1. Use of false or fraudulent information by an applicant;

12 2. Suspension or revocation of a license in another state
13 unless the license has been reinstated in that state;

14 3. Refusal of licensure in another state other than for
15 examination failure; and

16 4. Multiple examination failures.

17 M. The Board shall not deny a license to a person otherwise
18 qualified to practice allopathic medicine within the meaning of this
19 act solely because the person's practice or a therapy is
20 experimental or nontraditional.

21 SECTION 4. AMENDATORY 59 O.S. 2011, Section 495a.1, as
22 amended by Section 1, Chapter 175, O.S.L. 2018 (59 O.S. Supp. 2018,
23 Section 495a.1) is amended to read as follows:

24

1 Section 495a.1 A. At regular intervals set by the State Board
2 of Medical Licensure and Supervision, no less than one time per
3 annum, each licensee licensed by ~~this act~~ the Oklahoma Allopathic
4 Medical and Surgical Licensure and Supervision Act shall demonstrate
5 to the Board the licensee's continuing qualification to practice
6 medicine and surgery. The licensee shall apply for license
7 reregistration on a form or forms provided by the Board, which shall
8 be designed to require the licensee to update or add to the
9 information in the Board's file relating to the licensee and his or
10 her professional activity. It shall also require the licensee to
11 report to the Board the following information:

12 1. Any action taken against the licensee for acts or conduct
13 similar to acts or conduct described in ~~this act~~ the Oklahoma
14 Allopathic Medical and Surgical Licensure and Supervision Act as
15 grounds for disciplinary action by:

- 16 a. any jurisdiction or authority (United States or
17 foreign) that licenses or authorizes the practice of
18 medicine and surgery,
- 19 b. any peer review body,
- 20 c. any health care institution,
- 21 d. any professional medical society or association,
- 22 e. any law enforcement agency,
- 23 f. any court, or
- 24 g. any governmental agency;

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

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

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

10 5. The licensee's voluntary resignation from the medical staff
11 of any health care institution or voluntary limitation of the
12 licensee's staff privileges at such an institution if that action
13 occurred while the licensee was under formal or informal
14 investigation by the institution or a committee thereof for any
15 reason related to alleged medical incompetence, unprofessional
16 conduct, or mental or physical impairment;

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

23 7. Whether the licensee has abused or has been addicted to or
24 treated for addiction to alcohol or any chemical substance during

1 the previous registration period, unless such person is in a
2 rehabilitation program approved by the Board;

3 8. Whether the licensee has had any physical injury or disease
4 or mental illness during the previous registration period that
5 affected or interrupted his or her practice of medicine and surgery;
6 and

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

11 B. The Board may require continuing medical education for
12 license reregistration and require documentation of that education.
13 The Board shall promulgate rules on the specific requirements of the
14 amount of continuing medical education needed for reregistration.
15 Failure to meet the requirements in the allotted time may result in
16 the licensee being required to pay a nondisciplinary fine by the
17 Board secretary of up to but not more than One Thousand Dollars
18 (\$1,000.00).

19 C. The Board shall require that the licensee receive not less
20 than one (1) hour of education in pain management or one (1) hour of
21 education in opioid use or addiction each year preceding an
22 application for renewal of a license, unless the licensee has
23 demonstrated to the satisfaction of the Board that the licensee does
24

1 not currently hold a valid federal Drug Enforcement Administration
2 registration number.

3 D. The licensee shall sign and attest to the veracity of the
4 application form for license reregistration. Failure to report
5 fully and correctly shall be grounds for disciplinary action by the
6 Board.

7 E. The Board shall establish a system for reviewing
8 reregistration forms. The Board may initiate investigations and
9 disciplinary proceedings based on information submitted by licensees
10 for license reregistration.

11 F. Upon a finding by the Board that the licensee is fit to
12 continue to practice medicine and surgery in this state, the Board
13 shall issue to the licensee a license to practice medicine and
14 surgery during the next registration period.

15 SECTION 5. AMENDATORY 59 O.S. 2011, Section 503, as
16 amended by Section 1, Chapter 176, O.S.L. 2014 (59 O.S. Supp. 2018,
17 Section 503), is amended to read as follows:

18 Section 503. The State Board of Medical Licensure and
19 Supervision may suspend, revoke or order any other appropriate
20 sanctions against the license of any physician or surgeon holding a
21 license to practice in this state for unprofessional conduct, but no
22 such suspension, revocation or other penalty shall be made until the
23 licensee is cited to appear for hearing. No such citation shall be
24 issued except upon sworn complaint filed with the secretary of the

1 Board charging the licensee with having been guilty of
2 unprofessional conduct and setting forth the particular act or acts
3 alleged to constitute unprofessional conduct. In the event it comes
4 to the attention of the Board that a violation of the rules of
5 professional conduct may have occurred, even though a formal
6 complaint or charge may not have been filed, the Board staff may
7 conduct an investigation of the possible violation, and may upon its
8 own motion institute a formal complaint. In the course of the
9 investigation persons appearing before the Board may be required to
10 testify under oath. Upon the filing of a complaint, either by an
11 individual or the Board staff as provided herein, the citation must
12 forthwith be issued by the secretary of the Board over the signature
13 of the secretary and seal of the Board, setting forth the complaint
14 of unprofessional conduct, and giving due notice of the time and
15 place of the hearing by the Board. ~~The citation shall be made~~
16 ~~returnable at the next regular meeting of the Board occurring at~~
17 ~~least thirty (30) days after the service of the citation. In any~~
18 case in which a physician disputes allegations made in a complaint,
19 the matter shall be set and heard by the Board at the next regular
20 meeting of the Board occurring at least thirty (30) calendar days
21 after the day of service of the citation, exclusive of the day of
22 service, but will be heard not later than the next regular meeting
23 of the Board occurring after ninety (90) calendar days after service
24 of the citation, exclusive of the day of service. No continuance

1 may be granted by the Board on its own motion or at the request of
2 the defendant or his or her counsel or at the request of the
3 attorney for the state, unless the record of the case, either orally
4 or in writing, sets forth a finding that the ends of justice served
5 by the granting of such continuance outweigh the best interest of
6 the public and the defendant in a speedy hearing. The defendant
7 shall file a written answer under oath with the secretary of the
8 Board within twenty (20) calendar days after the service of the
9 citation, exclusive of the day of service. The secretary of the
10 Board may extend the time of answer upon satisfactory showing that
11 the defendant is for reasonable cause unable to answer within the
12 twenty (20) calendar days exclusive of the day of service, but in no
13 case shall the time be extended beyond the date of the next regular
14 meeting of the Board, unless a continuance is granted by the Board.

15 SECTION 6. AMENDATORY 59 O.S. 2011, Section 503.1, is
16 amended to read as follows:

17 Section 503.1 The Secretary of the State Board of Medical
18 Licensure and Supervision, upon concurrence of the President of the
19 Board that an emergency exists for which the immediate suspension of
20 a license is imperative for the public health, safety and welfare,
21 may conduct a hearing as contemplated by Section 314 of Title 75 of
22 the Oklahoma Statutes ~~to~~ and may, upon probable cause, suspend
23 temporarily the license of any person under the jurisdiction of the
24 Board.

1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 503.2 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

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

24

1 Section 508. A. Whenever any license has been procured or
2 obtained by fraud or misrepresentation on the licensure application,
3 or was issued by mistake; or if the diploma of graduation in
4 medicine and surgery or any other credentials required as necessary
5 to the admission to the examination for license were obtained by
6 fraud or misrepresentation on the licensure application, or were
7 issued by mistake; or if the reciprocity endorsement from another
8 state, upon which a license has been issued in this state, was
9 procured by fraud or misrepresentation, or was issued by mistake, it
10 shall be the duty of the State Board of Medical Licensure and
11 Supervision to take appropriate disciplinary action in the same
12 manner as is provided by the Oklahoma Allopathic Medical and
13 Surgical Licensure and Supervision Act for the disciplining of
14 unprofessional conduct or in cases of unintentional
15 misrepresentation of information on the licensure application, the
16 State Board of Medical Licensure and Supervision shall delegate to
17 the Board secretary the ability to issue a nondisciplinary
18 administrative fine of up to but not more than One Thousand Dollars
19 (\$1,000.00) per licensure applicant or to require a continuing
20 medical education course in ethics, or to take both actions, to
21 impress upon the applicant the seriousness of completing the
22 application truthfully.

23 B. Use of fraudulent information to obtain a license shall be a
24 misdemeanor offense, punishable, upon conviction, by the imposition

1 of a fine of not less than One Thousand Dollars (\$1,000.00), or by
2 imprisonment in the county jail for not more than one (1) year, or
3 by both such fine and imprisonment.

4 SECTION 9. AMENDATORY 59 O.S. 2011, Section 509, as
5 amended by Section 2, Chapter 175, O.S.L. 2018 (59 O.S. Supp. 2018,
6 Section 509), is amended to read as follows:

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

- 10 1. Procuring, aiding or abetting a criminal operation;
- 11 2. The obtaining of any fee or offering to accept any fee,
12 present or other form of remuneration whatsoever, on the assurance
13 or promise that a manifestly incurable disease can or will be cured;
- 14 3. Willfully betraying a professional secret to the detriment
15 of the patient;
- 16 4. Habitual intemperance or the habitual use of habit-forming
17 drugs;
- 18 5. Conviction or confession of, or plea of guilty, nolo
19 contendere, no contest or Alford plea to, a felony or ~~of~~ any offense
20 involving moral turpitude;
- 21 6. All advertising of medical business in which statements are
22 made which are grossly untrue or improbable and calculated to
23 mislead the public;

24

1 7. Conviction or confession of, or plea of guilty, nolo
2 contendere, no contest or Alford plea to, a crime involving
3 violation of:

4 a. the antinarcotic or prohibition laws and regulations
5 of the federal government,

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

7 c. State Board of Health rules, or

8 d. a determination by a judge or jury;

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

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

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

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

23 12. Prescribing or administering a drug or treatment without
24 sufficient examination and the establishment of a valid physician-

1 patient relationship and not prescribing in a safe, medically
2 accepted manner;

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

7 14. Aiding or abetting, directly or indirectly, the practice of
8 medicine by any person not duly authorized under the laws of this
9 state;

10 15. The inability to practice medicine with reasonable skill
11 and safety to patients by reason of age, illness, drunkenness,
12 excessive use of drugs, narcotics, chemicals, or any other type of
13 material or as a result of any mental or physical condition. In
14 enforcing this ~~subsection~~ section the State Board of Medical
15 Licensure and Supervision may, upon probable cause, request a
16 physician to submit to a mental or physical examination by
17 physicians designated by it. If the physician refuses to submit to
18 the examination, the Board shall issue an order requiring the
19 physician to show cause why the physician will not submit to the
20 examination and shall schedule a hearing on the order within thirty
21 (30) days after notice is served on the physician, exclusive of the
22 day of service. The physician shall be notified by either personal
23 service or by certified mail with return receipt requested. At the
24 hearing, the physician and the physician's attorney are entitled to

1 present any testimony and other evidence to show why the physician
2 should not be required to submit to the examination. After a
3 complete hearing, the Board shall issue an order either requiring
4 the physician to submit to the examination or withdrawing the
5 request for examination. The medical license of a physician ordered
6 to submit for examination may be suspended until the results of the
7 examination are received and reviewed by the Board;

8 16. a. Prescribing, dispensing or administering of controlled
9 substances or narcotic drugs in excess of the amount
10 considered good medical practice,

11 b. prescribing, dispensing or administering controlled
12 substances or narcotic drugs without medical need in
13 accordance with pertinent licensing board standards,
14 or

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

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

22 18. Failure to maintain an office record for each patient which
23 accurately reflects the evaluation, treatment, and medical necessity
24 of treatment of the patient;

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

5 20. Failure to provide a proper and safe medical facility
6 setting and qualified assistive personnel for a recognized medical
7 act, including but not limited to an initial in-person patient
8 examination, office surgery, diagnostic service or any other medical
9 procedure or treatment. Adequate medical records to support
10 diagnosis, procedure, treatment or prescribed medications must be
11 produced and maintained.

12 SECTION 10. AMENDATORY 59 O.S. 2011, Section 509.1, is
13 amended to read as follows:

14 Section 509.1 A. RANGE OF ACTIONS: The State Board of Medical
15 Licensure and Supervision may impose disciplinary actions in
16 accordance with the severity of violation of the Oklahoma Allopathic
17 Medical and Surgical Licensure and Supervision Act. Disciplinary
18 actions may include, but are not limited to the following:

- 19 1. Revocation of the medical license with or without the right
20 to reapply;
- 21 2. Suspension of the medical license;
- 22 3. Probation;
- 23 4. Stipulations, limitations, restrictions, and conditions
24 relating to practice;

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

2 6. Reprimand;

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

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

6 9. Administrative fines of up to Five Thousand Dollars
7 (\$5,000.00) per violation.

8 Provided, as a condition of disciplinary action sanctions, the Board
9 may impose as a condition of any disciplinary action, the payment of
10 costs expended by the Board for any legal fees and costs and
11 probation and monitoring fees including, but not limited to, staff
12 time, salary and travel expense, witness fees and attorney fees.

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

15 B. LETTER OF CONCERN: The Board may authorize the secretary to
16 issue a confidential letter of concern to a licensee when evidence
17 does not warrant formal proceedings, but the secretary has noted
18 indications of possible errant conduct that could lead to serious
19 consequences and formal action. The letter of concern may contain,
20 at the secretary's discretion, clarifying information from the
21 licensee.

22 C. EXAMINATION/EVALUATION: The Board may, upon reasonable
23 cause, require professional competency, physical, mental, or
24

1 chemical dependency examinations of any licensee, including
2 withdrawal and laboratory examination of body fluids.

3 D. DISCIPLINARY ACTION AGAINST LICENSEES:

4 1. The Board shall promulgate rules describing acts of
5 unprofessional or unethical conduct by physicians pursuant to the
6 Oklahoma Allopathic Medical and Surgical Licensure and Supervision
7 Act; and

8 2. Grounds for Action: The Board may take disciplinary action
9 for unprofessional or unethical conduct as deemed appropriate based
10 upon the merits of each case and as set out by rule. The Board
11 shall not revoke the license of a person otherwise qualified to
12 practice allopathic medicine within the meaning of the Oklahoma
13 Allopathic Medical and Surgical Licensure and Supervision Act solely
14 because the person's practice or a therapy is experimental or
15 nontraditional.

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

19 E. SURRENDER IN LIEU OF PROSECUTION:

20 1. The Board may accept a surrender of license from a licensee
21 who has engaged in unprofessional conduct in lieu of Board staff
22 prosecuting a pending disciplinary action or filing formal
23 disciplinary proceedings only as provided in this section. To
24

1 effect such a surrender, the licensee must submit a sworn statement
2 to the Board:

3 a. expressing the licensee's desire to surrender the
4 license,

5 b. acknowledging that the surrender is freely and
6 voluntarily made, that the licensee has not been
7 subjected to coercion or duress, and that the licensee
8 is fully aware of the consequences of the license
9 surrender,

10 c. stating that the licensee is the subject of an
11 investigation or proceeding by the Board or a law
12 enforcement or other regulatory agency involving
13 allegations which, if proven, would constitute grounds
14 for disciplinary action by the Board, and

15 d. specifically admitting to and describing the
16 misconduct.

17 2. The sworn written statement must be submitted with the
18 licensee's wallet card and wall certificate. The Secretary or
19 Executive Director of the Board may accept the sworn statement,
20 wallet card and wall certificate from a licensee pending formal
21 acceptance by the Board. The issuance of a complaint and citation
22 by the Board shall not be necessary for the Board to accept a
23 surrender under this subsection. A surrender under this subsection
24 shall be considered disciplinary action by the Board in all cases,

1 even in cases where surrender occurs prior to the issuance of a
2 formal complaint and citation, and shall be reported as disciplinary
3 action by the Board to the public and any other entity to whom the
4 Board regularly reports disciplinary actions.

5 3. As a condition to acceptance of the surrender, the Board may
6 require the licensee to pay the costs expended by the Board for any
7 legal fees and costs and any investigation, probation and monitoring
8 fees including, but not limited to, staff time, salary and travel
9 expense, witness fees and attorney fees.

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

14 F. ALL LICENSED PROFESSIONALS: All disciplinary actions
15 defined in this section are applicable to any and all professional
16 licensees under the legislative jurisdiction of the State Board of
17 Medical Licensure and Supervision.

18 SECTION 11. AMENDATORY 59 O.S. 2011, Section 512, as
19 amended by Section 3, Chapter 176, O.S.L. 2014 (59 O.S. Supp. 2018,
20 Section 512), is amended to read as follows:

21 Section 512. A. The secretary of the State Board of Medical
22 Licensure and Supervision shall be paid an annual salary in an
23 amount fixed by the Board. The Board shall have the authority to
24 expend such funds as are necessary in carrying out the duties of the

1 Board and shall have the authority to hire all necessary personnel,
2 at salaries to be fixed by the Board, as the Board shall deem
3 necessary. The Board shall have the authority to hire attorneys to
4 represent the Board in all legal matters and to assist authorized
5 state and county officers in prosecuting or restraining violations
6 of Section 481 et seq. of this title, and to fix the salaries or per
7 diem of ~~said~~ the attorneys.

8 B. The Board shall have the authority to hire one or more
9 investigators as may be necessary to carry out the provisions of
10 ~~this act~~ the Oklahoma Allopathic Medical and Surgical Licensure and
11 Supervision Act at an annual salary to be fixed by the Board. Such
12 investigators may be commissioned peace officers of this state. In
13 addition such investigators shall have the authority and duty to
14 investigate and inspect the records of all persons in order to
15 determine whether or not a disciplinary action for unprofessional
16 misconduct is warranted or whether the narcotic laws or the
17 dangerous drug laws have been complied with.

18 C. 1. For purposes of this section, investigators shall be
19 peace officers certified by the Council on Law Enforcement Education
20 and Training and shall have statewide jurisdiction to perform the
21 duties authorized by this section. In addition, the investigators
22 shall have all the powers now or hereafter vested by law in peace
23 officers.

24

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

5 3. Any licensee or applicant for license subject to the
6 provisions of the Oklahoma Allopathic Medical and Surgical Licensure
7 and Supervision Act shall be deemed to have given consent to any
8 duly authorized investigator of the Board to access, enter or
9 inspect the records, either on-site or at the Board office, or
10 facilities of such licensee or applicant subject to the Oklahoma
11 Allopathic Medical and Surgical Licensure and Supervision Act.
12 Refusal to allow such access, entry or inspection may constitute
13 grounds for the denial, nonrenewal, suspension or revocation of a
14 license. Upon refusal of such access, entry or inspection, pursuant
15 to this section, the Board or a duly authorized representative may
16 make application for and obtain a search warrant from the district
17 court where the facility or records are located to allow such
18 access, entry or inspection.

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

22 2. The Board is authorized to pay the travel expenses of Board
23 employees and members in accordance with the State Travel
24 Reimbursement Act.

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

4 SECTION 12. AMENDATORY 59 O.S. 2011, Section 513, is
5 amended to read as follows:

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

14 2. The license of any physician or surgeon who has been
15 convicted of any felony in or without the State of Oklahoma and
16 whether in a state or federal court, may be suspended by the Board
17 upon the submission thereto of a certified copy of the judgment and
18 sentence of the trial court and the certificate of the clerk of the
19 court of the conviction.

20 3. Upon proof of a ~~final~~ felony conviction by the courts ~~and~~
21 ~~after exhaustion of the appellate process~~, the Board shall revoke
22 the physician's license. If the felony conviction is overturned on
23 appeal and no other appeals are sought, the Board shall restore the
24 license of the physician. ~~Suspension or revocation of the license~~

1 ~~of any person convicted of a felony on any other grounds than that~~
2 ~~of moral turpitude or the violation of the federal or state narcotic~~
3 ~~laws, shall be on the merits of the particular case, but the court~~
4 Court ~~records in the trial of such case when~~ of such a conviction
5 ~~has been had~~ shall be prima facie evidence of the conviction.

6 4. The Board shall also revoke and cancel the license of any
7 physician or surgeon who has been charged in a court of record of
8 this or other states of the United States or in the federal court
9 with the commission of a felony and who is a fugitive from justice,
10 upon the submission of a certified copy of the charge together with
11 a certificate from the clerk of the court that after the commitment
12 of the crime the physician or surgeon fled from the jurisdiction of
13 the court and is a fugitive from justice.

14 B. To the extent necessary to allow the Board the power to
15 enforce disciplinary actions imposed by the Board, in the exercise
16 of its authority, the Board may punish willful violations of its
17 orders and impose additional penalties as allowed by Section 509.1
18 of this title.

19 SECTION 13. AMENDATORY 59 O.S. 2011, Section 518.1, is
20 amended to read as follows:

21 Section 518.1 A. There is hereby established the Allied
22 Professional Peer Assistance Program to rehabilitate allied medical
23 professionals whose competency may be compromised because of the
24 abuse of drugs or alcohol, so that such allied medical professionals

1 can be treated and can return to or continue the practice of allied
2 medical practice in a manner which will benefit the public. The
3 program shall be under the supervision and control of the State
4 Board of Medical Licensure and Supervision.

5 B. The Board may appoint one or more peer assistance evaluation
6 advisory committees, hereinafter called the "allied peer assistance
7 committees". Each of these committees shall be composed of members,
8 the majority of which shall be licensed allied medical professionals
9 with expertise in chemical dependency. The allied peer assistance
10 committees shall function under the authority of the State Board of
11 Medical Licensure and Supervision in accordance with the rules of
12 the Board. The program may be one hundred percent (100%) outsourced
13 to professional groups specialized in this arena. The committee
14 members shall serve without pay, but may be reimbursed for the
15 expenses incurred in the discharge of their official duties in
16 accordance with the State Travel Reimbursement Act.

17 C. The Board may appoint and employ a qualified person or
18 persons to serve as program coordinators and shall fix such person's
19 compensation. The program may employ a director for purposes of
20 ongoing nonclerical administrative duties and shall fix the
21 director's compensation. The Board shall define the duties of the
22 program coordinators and director who shall report directly to the
23 Board.

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

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

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

13 G. Records and management information system of the
14 professionals enrolled in the Allied Professional Peer Assistance
15 Program and reports shall be maintained in the program office in a
16 place separate and apart from the records of the Board. The records
17 shall be made public only by subpoena and court order; provided
18 however, confidential treatment shall be cancelled upon default by
19 the professional in complying with the requirements of the program.

20 H. Any person making a report to the Board or to an allied peer
21 assistance committee regarding a professional suspected of
22 practicing allied medical practice while habitually intemperate or
23 addicted to the use of habit-forming drugs, or a professional's
24 progress or lack of progress in rehabilitation, shall be immune from

1 any civil or criminal action resulting from such reports, provided
2 such reports are made in good faith.

3 I. A professional's participation in the Allied Professional
4 Peer Assistance Program in no way precludes additional proceedings
5 by the Board for acts or omissions of acts not specifically related
6 to the circumstances resulting in the professional's entry into the
7 program. However, in the event the professional defaults from the
8 program, the Board may discipline the professional for those acts
9 which led to the professional entering the program.

10 J. The Executive Director of the Board shall suspend the
11 license immediately upon notification that the licensee has
12 defaulted from the Allied Professional Peer Assistance Program, and
13 shall assign a hearing date for the matter to be presented to the
14 Board.

15 K. All treatment information, whether or not recorded, and all
16 communications between a professional and therapist are both
17 privileged and confidential. In addition, the identity of all
18 persons who have received or are receiving treatment services shall
19 be considered confidential and privileged.

20 L. As used in this section, unless the context otherwise
21 requires:

22 1. "Board" means the State Board of Medical Licensure and
23 Supervision; and

24

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

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

9 SECTION 14. This act shall become effective November 1, 2019.

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