ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE BILL NO. 1323

By: Hamilton (Jeff) of the House

and

Brown of the Senate

An Act relating to professions and occupations; amending 59 O.S. 1991, Sections 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 636, 637, 637.1, 638, 641, 642, 643, 644 and 645, which relate to the Oklahoma Osteopathic Medicine Act; making certain practice a privilege; clarifying language; exempting certain hospital facilities; modifying definitions; providing for liability; providing for certain construction; re-creating State Board of Osteopathic Examiners; conforming language; providing for certain confidentiality of certain files; providing exceptions; increasing certain eligibility requirements; providing for certain examinations and equivalencies; increasing grounds for licensure suspension, revocation or refusal to issue or reinstate; removing certain grounds; modifying certain procedures; providing an effective date; and declaring an emergency.

AMENDMENT NO. 1. Page 1, strike the title, enacting clause and entire bill and insert

"[professions and occupations - amending sections in Title 59 - Oklahoma Osteopathic Medicine Act - emergency]

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 620, is amended to read as follows:

Section 620. ~~This may~~ A. Sections 620 through 645 of this title shall be known and may be cited as ~~"The~~ the "Oklahoma Osteopathic Medicine Act".

B. The practice of osteopathic medicine is a privilege granted through the Oklahoma Osteopathic Medicine Act by the State Board of Osteopathic Examiners.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 621, is amended to read as follows:

Section 621. As used in ~~this act~~ the Oklahoma Osteopathic Medicine Act:

"Osteopathic medicine" means a system of health care founded by Andrew Taylor Still and based on the theory that the body is capable of making its own remedies against disease and other toxic conditions when it is in normal structural relationship and has favorable environmental conditions and adequate nutrition. ~~It~~ Osteopathic medicine utilizes generally accepted physical, pharmacological and surgical methods of diagnosis and therapy while placing strong emphasis on the importance of body mechanics and manipulative methods to detect and correct faulty structure and function.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 622, is amended to read as follows:

Section 622. A. It shall be unlawful for any person to practice as an osteopathic physician and surgeon in this state, without a license to do so, issued by the State Board of Osteopathic Examiners, hereinafter created; provided, that any license or certificate heretofore issued under the laws of this state, authorizing its holder to practice osteopathic medicine, shall remain in full force and effect.

B. A hospital or related institution, as such terms are defined in Section 1-701 of Title 63 of the Oklahoma Statutes, which has the principal purpose or function of providing hospital or medical care, including but not limited to any corporation, association, trust, or other organization organized and operated for such purpose, may employ one or more persons who are duly licensed to practice osteopathic medicine in this state without being regarded as itself practicing osteopathic medicine within the meaning and provisions of this section. The employment by the hospital or related institution of any person who is duly licensed shall not, in and of itself, be considered as an act of unprofessional conduct by the person so employed. Nothing provided herein shall eliminate, limit or restrict the liability for any act or failure to act of any hospital, any hospital's employees or persons duly licensed to practice osteopathic medicine.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 623, is amended to read as follows:

Section 623. The practice of medicine and surgery by persons authorized under other licensing laws of this state shall in no way be affected by the provisions of ~~this act~~ the Oklahoma Osteopathic Medicine Act.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 624, as amended by Section 1 of Enrolled House Bill No. 1132 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 624. ~~Prior to April 20, 1990, the~~ A. There is hereby re-created the State Board of Osteopathic Examiners to continue until July 1, 1999, in accordance with the provisions of the Oklahoma Sunset Law.

B. The State Board of Osteopathic Examiners shall consist of ~~seven (7) examiners appointed by the Governor, one of whom shall be a lay person. On and after April 20, 1990, the State Board of Osteopathic Examiners shall consist of~~ eight (8) examiners appointed by the Governor, two of whom shall be lay persons. ~~Provided, that persons serving as members of the State Board on April 19, 1990, shall continue to serve for the terms for which they were appointed.~~ The remaining examiners shall be regularly licensed osteopathic physicians in good standing in this state who have been so engaged for a period of at least five (5) years immediately prior to their appointment. The osteopathic physician examiners shall be appointed by the Governor from a list of not less than six names submitted to the Governor by the Oklahoma Osteopathic Association annually, and any present member of the Board of Examiners shall be appointed to fill out his unexpired term. All appointments made to ~~this~~ the Board shall be for terms of seven (7) years. In the event of a vacancy brought about for any reason, the post so vacated shall be filled from a list of not less than six names submitted by the Oklahoma Osteopathic Association. ~~There is hereby re-created the State Board of Osteopathy and hereby renamed the State Board of Osteopathic Examiners to continue until July 1, 1999, in accordance with the provisions of the Oklahoma Sunset Law.~~

C. Said Board shall have and use a common seal, and make and adopt all necessary rules ~~and regulations~~ and bylaws relating to the enforcement of the provisions of ~~Sections 621 through 644 of this title not inconsistent herewith~~ the Oklahoma Osteopathic Medicine Act.

D. Examinations shall be held at least twice a year, at the time and place fixed by the said Board, of which examination all applicants shall be notified in writing. The compensation of examiners shall be fixed by the bylaws of said Board, but in no case shall exceed the fees collected, and shall be paid from said fees.

SECTION 6. AMENDATORY 59 O.S. 1991, Section 625, is amended to read as follows:

Section 625. Each member of said Board shall, before entering upon the duties of ~~his~~ the office, take the oath of office prescribed by the Constitution before someone qualified to administer oaths, and shall, except for the lay person, make oath that ~~he~~ the member is a legally qualified practitioner of osteopathic medicine in this state; and that he has been engaged in the active practice of osteopathic medicine in this state at least five (5) years preceding ~~his~~ the appointment of such member.

SECTION 7. AMENDATORY 59 O.S. 1991, Section 626, is amended to read as follows:

Section 626. A. 1. The State Board of Osteopathic Examiners shall, immediately after the members have qualified, elect a president, vice-president and secretary-treasurer.

2. The president of said Board shall preside at all meetings of the Board and perform such other duties as the Board by its rule may prescribe.

3. The vice-president shall perform all the duties of the president, during the ~~latter's~~ president's absence or disability.

4. The secretary-treasurer shall keep a record of all proceedings of the Board and perform such other duties as are prescribed in ~~this act~~ the Oklahoma Osteopathic Medicine Act, or which may be prescribed by said Board. It shall be ~~his~~ the duty of the secretary-treasurer to receive and care for all monies coming into the hands of said Board, and to pay out the same upon orders of the Board.

B. The State Board and such employees as determined by the Board shall be bonded as required by Sections 85.26 through 85.31 of Title 74 of the Oklahoma Statutes.

C. The State Board may expend such funds as are necessary in implementing the duties of the Board. The Board may hire:

1. All necessary administrative, clerical and stenographic assistance as the Board shall deem necessary at a salary to be fixed by the Board;

2. An attorney, on a case-by-case basis, to represent the Board in legal matters and to assist authorized state and county officers in prosecuting or restraining violations of the provisions of the Oklahoma Osteopathic Medicine Act. The Board shall fix the compensation of said attorney; and

3. One or more investigators as may be necessary to implement the provisions of the Oklahoma Osteopathic Medicine Act at an annual salary to be fixed by the Board, and may authorize necessary expenses. In addition, the investigators may investigate and inspect the nonfinancial business records of all persons licensed pursuant to the Oklahoma Osteopathic Medicine Act in order to determine whether or not licensees are in compliance with the Oklahoma Osteopathic Medicine Act and the Uniform Controlled Dangerous Substances Act or any other law, rule or regulation of the State of Oklahoma or any federal law or rule affecting the practice of osteopathic medicine.

D. Any licensee or applicant for license subject to the provisions of the Oklahoma Osteopathic Medicine Act shall be deemed to have given consent to any duly authorized employee or agent of the Board to access, enter, or inspect the records or facilities of such licensee or applicant subject to the Oklahoma Osteopathic Medicine Act. Refusal to allow such access, entry, or inspection may constitute grounds for the denial, nonrenewal, suspension, or revocation of a license. Upon refusal of such access, entry, or

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

SECTION 8. AMENDATORY 59 O.S. 1991, Section 627, is amended to read as follows:

Section 627. A. The State Board of Osteopathic Examiners shall preserve a record of its proceedings in a book for the purpose, which shall be open to public inspection at all reasonable times, showing ~~the~~:

1. The name, age, place and duration of residence of each applicant; ~~the~~

2. The time spent in the study of osteopathic medicine; ~~the~~

3. The year and school from which degrees were granted; ~~and its~~

4. Its proceeding relative to the issuance, refusal, renewal, suspension, or revocation of licenses applied for, and issued ~~under this act~~ pursuant to the Oklahoma Osteopathic Medicine Act; and ~~the~~

5. The name, known place of business and residence, and the date and number of license of each registered osteopathic physician and surgeon~~; said~~.

The register shall be prima facie evidence of all matters contained therein.

B. The secretary of said Board shall on the first of March of each year submit an official copy of said register to the Secretary of State for permanent record. A certified copy of said register, or any part thereof, with the hand and seal of the secretary of said State Board of Osteopathic Examiners, or the Secretary of State, shall be admitted in evidence in all courts of the state.

C. Investigative files maintained by the Board shall not be made public except in connection with proceedings involving the licensure of an applicant or a licensee who is the subject of a proceeding or pursuant to the order of a court of competent

jurisdiction or in the course of voluntary cooperation with other state or federal agencies. Reports received by the Board from other state or federal agencies, employers, professional societies or associations, hospitals, hospital medical staffs or other organizations relating to an applicant or a licensee's activities shall be a part of such investigative and legal files. All final disciplinary orders are a matter of public record.

SECTION 9. AMENDATORY 59 O.S. 1991, Section 628, is amended to read as follows:

Section 628. Each applicant for the examination provided in ~~this act~~ the Oklahoma Osteopathic Medicine Act shall comply with the following requirements:

1. Make application for examination on blank forms prepared and furnished by the State Board of Osteopathic Examiners;

2. Submit evidence, verified on oath and satisfactory to the Board, that the applicant is twenty-one (21) years of age or over, and has the preliminary and professional education required by ~~this act~~ the Oklahoma Osteopathic Medicine Act; and

3. Pay in advance to the Board, the fees as determined by the State Board of Osteopathic Examiners to be sufficient to cover the cost and expense incurred by the Board for processing such application for:

~~(a)~~ a. examination of an osteopathic physician and surgeon, the fee charged to the Board by the National ~~Testing~~ Board ~~for issuance~~ of Osteopathic Medical Examiners for the examination and for issuance of the license, and

~~(b)~~ b. the license to one applying therefor under the provisions of Section 634 of this title.

SECTION 10. AMENDATORY 59 O.S. 1991, Section 629, is amended to read as follows:

Section 629. The standards of preliminary education deemed requisite for admission to an accredited osteopathic school, college or institution in good standing are that ~~the~~ an applicant shall have completed the admission requirements of an osteopathic college accredited by the Bureau of Professional Education of the American Osteopathic Association.

SECTION 11. AMENDATORY 59 O.S. 1991, Section 630, is amended to read as follows:

Section 630. To practice as an osteopathic physician, the applicant shall be a graduate of a school or college of osteopathic medicine which is accredited by the Bureau of Professional Education of the American Osteopathic Association and shall have completed at least one (1) year of rotating internship or the equivalent thereof, in an accredited internship or residency program acceptable to the Board.

SECTION 12. AMENDATORY 59 O.S. 1991, Section 631, is amended to read as follows:

Section 631. The term school or college of osteopathic medicine shall ~~be~~ mean a legally chartered and accredited school or college of osteopathic medicine requiring ~~for~~:

1. For admission to its courses of study, a preliminary education equal to the requirements established by the Bureau of Professional Education of the American Osteopathic Association~~, and which shall further require for~~; and

2. For granting the degree, Doctor of Osteopathy, (D.O.), actual attendance at such osteopathic school or college and demonstration of successful completion of the curriculum and recommendation for graduation.

SECTION 13. AMENDATORY 59 O.S. 1991, Section 632, is amended to read as follows:

Section 632. A. The examination of those who desire to practice as osteopathic physicians shall embrace those general

subjects and topics, a knowledge of which is commonly and generally required of candidates for a degree of Doctor of Osteopathy by accredited osteopathic colleges in the United States. An examination furnished by the National Board of Osteopathic Medical Examiners shall be deemed to fulfill this requirement.

B. The applicant may be accepted who has successfully ~~passed~~ completed the examination sequence of the National ~~Osteopathic~~ Board ~~Examinations~~ of Osteopathic Medical Examiners and meets all other requirements.

C. If the applicant fails the examination, then ~~he~~ the applicant may apply to take another examination. The applicant shall not be eligible to take another examination until after six (6) months have elapsed. The applicant shall not be eligible, except in the case of clear and compelling mitigating circumstances, to take more than three examinations.

SECTION 14. AMENDATORY 59 O.S. 1991, Section 633, is amended to read as follows:

Section 633. Each applicant who successfully passes the examination and ~~who~~ has met other requirements for licensure shall be issued a license to practice as an osteopathic physician and surgeon.

SECTION 15. AMENDATORY 59 O.S. 1991, Section 634, is amended to read as follows:

Section 634. The State Board of Osteopathic Examiners may ~~in its discretion~~ issue a license without examination to a practitioner who is currently licensed in any country, state, territory or province, upon the following conditions:

1. That the applicant is of good moral character;

2. That the requirements of registration in the country, state, territory or province in which the applicant is licensed are deemed by the State Board to ~~be~~ have been equivalent to the requirements of registration in force in this state at the date of such license;

3. That the applicant has no disciplinary matters pending against him in any country, state, territory or province; and

4. That the license being reciprocated must ~~be~~ have been obtained by an examination in that country, state, territory or province deemed by the Board to be equivalent to that used by the Board, or obtained by examination of the National Board of Osteopathic Medical Examiners.

SECTION 16. AMENDATORY 59 O.S. 1991, Section 636, is amended to read as follows:

Section 636. Osteopathic physicians shall observe and be subject to all state and municipal regulations relative to reporting all births and deaths, and all matters pertaining to the public health, with equal rights and obligations as physicians of other schools of medicine, and such reports shall be accepted by the officers of the department to which ~~the same~~ such reports are made.

SECTION 17. AMENDATORY 59 O.S. 1991, Section 637, is amended to read as follows:

Section 637. A. The State Board of Osteopathic Examiners may refuse to admit a person to an examination or may refuse to issue or reinstate or may suspend or revoke any license issued or reinstated by the Board upon proof that the applicant or holder of such a license:

1. Has obtained a license, license renewal or authorization to sit for an examination, as the case may be, through fraud, deception ~~or~~, misrepresentation or bribery; or has been granted a license, license renewal or authorization to sit for an examination based upon a material mistake of fact;

2. Has engaged in the use or employment of dishonesty, fraud, misrepresentation, false promise ~~or~~, false pretense, unethical conduct or unprofessional conduct, as may be determined by the Board, in the performance of the functions or duties of an osteopathic physician, including but not limited to the following:

a. obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation; willfully and continually overcharging or overtreating patients; or charging for visits to the physician's office which did not occur or for services which were not rendered,

b. using intimidation, coercion or deception to obtain or retain a patient or discourage the use of a second opinion or consultation,

c. willfully performing inappropriate or unnecessary treatment, diagnostic tests or osteopathic medical or surgical services,

d. delegating professional responsibilities to a person who is not qualified by training, skill, competency, age, experience or licensure to perform them,

e. misrepresenting that any disease, ailment, or infirmity can be cured by a method, procedure, treatment, medicine or device,

f. acting in a manner which results in final disciplinary action by any professional society or association or hospital or medical staff of such hospital in this or any other state, whether agreed to voluntarily or not, if the action was in any way related to professional conduct, professional competence, malpractice or any other violation of the Oklahoma Osteopathic Medicine Act,

g. signing a blank prescription form; or dispensing, prescribing, administering or otherwise distributing any drug, controlled substance or other treatment without sufficient examination or the establishment of a physician/patient relationship, or for other than medically accepted therapeutic or experimental or

investigational purpose duly authorized by a state or federal agency, or not in good faith to relieve pain and suffering, or not to treat an ailment, physical infirmity or disease,

h. engaging in any sexual activity within a physician/patient relationship,

i. terminating the care of a patient without adequate notice or without making other arrangements for the continued care of the patient,

j. failing to furnish a copy of a patient's medical records upon a proper request from the patient or legal agent of the patient; or failing to comply with any other law relating to medical records,

k. failing to comply with any subpoena issued by the Board,

l. violating a probation agreement or order with this Board or any other agency, and

m. failing to keep complete and accurate records of purchase and disposal of controlled drugs or narcotic drugs;

3. Has engaged in gross negligence, gross malpractice or gross incompetence;

4. Has engaged in repeated acts of negligence, malpractice or incompetence;

5. ~~Has engaged in professional or occupational misconduct as may be determined by the Board, which may include, but shall not be limited to, the following acts:~~

~~a. failure to keep complete and accurate records of purchase and disposal of controlled drugs or narcotic drugs,~~

~~b. the writing of false or fictitious prescriptions for any drugs or narcotics declared by the laws of Oklahoma to be controlled, and~~

~~c. the prescribing or administering of a drug or treatment without sufficient examination and the establishment of a valid physician-patient relationship;~~

~~6.~~ Has been ~~convicted of any crime involving moral turpitude, or any crime relating adversely to the activities regulated by the Board;~~

~~For the purpose of this paragraph a plea of guilty, nonfault, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction~~ finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere in a criminal prosecution, for any offense reasonably related to the qualifications, functions or duties of an osteopathic physician, or for any offense involving moral turpitude, whether or not sentence is imposed, and regardless of the pendency of an appeal;

~~7.~~ 6. Has had his authority to engage in the activities regulated by the Board~~,~~ revoked ~~or~~, suspended, restricted, modified or limited ~~by any disciplinary action~~, or has been reprimanded, warned or censured, probated or otherwise disciplined by any other state~~,~~ or federal agency ~~or authority~~ whether or not voluntarily agreed to by the physician including, but not limited to, the denial of licensure, surrender of the license, permit or authority, allowing the license, permit or authority to expire or lapse, or discontinuing or limiting the practice of osteopathic medicine pending disposition of a complaint or completion of an investigation;

~~8.~~ 7. Has violated, or failed to comply with provisions of any act or regulation administered by the Board;

~~9.~~ 8. Is incapable, for medical or psychiatric or any other good cause, of discharging the functions of ~~a licensee~~ an osteopathic physician in a manner consistent with the public's health, safety and welfare;

~~10.~~ 9. Has been guilty of advertising by means of knowingly false or deceptive statements;

~~11.~~ 10. Has been guilty of advertising, practicing, or attempting to practice under a name other than one's own;

~~12.~~ 11. Has violated or refused to comply with a lawful order of the Board;

~~13.~~ 12. Has been guilty of habitual drunkenness, or habitual addiction to the use of morphine, cocaine or other habit-forming drugs;

~~14.~~ 13. Has been guilty of personal offensive behavior, which would include, but not be limited to obscenity, lewdness, molestation and other acts of moral turpitude; and

~~15.~~ 14. Has been adjudicated to be insane, or incompetent, or admitted to an institution for the treatment of psychiatric disorders.

B. The State Board of Osteopathic Examiners shall neither ~~refuse to issue, nor~~ refuse to renew, nor suspend, nor revoke any license, however, for any of these causes, unless the person accused has been given at least twenty (20) days' notice in writing of the charge against him and a public hearing by the State Board provided, three-fourths (3/4) of a quorum present at a meeting may vote to suspend a license in an emergency situation if the licensee affected is provided a public hearing within thirty (30) days of the emergency suspension.

C. The State Board of Osteopathic Examiners shall have the power to order or subpoena the attendance of witnesses, the inspection of records and premises and the production of relevant books and papers for the investigation of matters that may come

before them. The presiding officer of said Board shall have the authority to compel the giving of testimony as is conferred on courts of justice.

D. Any osteopathic physician in the State of Oklahoma ~~who may have his~~ whose license to practice osteopathic medicine is revoked or suspended under the previous paragraphs of this section shall have the right to seek judicial review of a ruling of the Board pursuant to the Administrative Procedures Act.

E. The Board may enact rules and regulations pursuant to the Administrative Procedures Act setting out additional acts of unprofessional conduct; which acts shall be grounds for refusal to issue or reinstate, or for action to condition, suspend or revoke a license.

SECTION 18. AMENDATORY 59 O.S. 1991, Section 637.1, is amended to read as follows:

Section 637.1 A. In addition or as an alternative, as the case may be, to revoking, conditioning, suspending, reinstating or refusing to renew any license, the State Board of Osteopathic Examiners may, after affording opportunity to be heard:

1. Temporarily order suspension or limitation of license;

2. Issue an order of warning, reprimand or censure with regard to any act, conduct or practice which, in the judgment of the Board upon consideration of all relevant facts and circumstances, does not warrant the initiation of formal action;

3. Order that any person violating any provision of an act or regulation administered by the Board to cease and desist from future violations thereof or to take such affirmative corrective action as may be necessary with regard to any act or practice found unlawful by the Board;

4. Order any person as a condition for continued reinstated or renewed licensure or as a condition for probation or suspension to

secure medical or such other professional treatment as may be necessary to properly discharge licensee functions; or

5. Order any person as a condition of any suspension or probation or any disciplinary action, to attend and produce evidence of successful completion of a specific term of education, residency or training in enumerated fields and/or institutions as ordered by the Board based on the facts of the case. Said education, residency or training shall be at the expense of the person so ordered.

B. If after considering all the testimony presented, the State Board of Osteopathic Examiners finds that the ~~defendant~~ respondent has violated any provision of the Oklahoma Osteopathic Medicine Act or any rule promulgated thereto, the Board may impose on the ~~defendant~~ respondent as a condition of any suspension, revocation, or probation, or any other disciplinary action, the payment of costs expended by the Board in investigating and prosecuting said cause, such costs to include but not be limited to staff time, salary and travel expense, witness fees and attorney fees.

SECTION 19. AMENDATORY 59 O.S. 1991, Section 638, is amended to read as follows:

Section 638. A. Each of the following acts shall constitute a misdemeanor, punishable, upon conviction, by a fine of not less than One Thousand Dollars ($1,000.00) nor more than Five Thousand Dollars ($5,000.00) or by imprisonment in the county jail for not less than ninety (90) days nor more than one (1) year, or by both such fine and imprisonment:

1. The practice of osteopathic medicine or attempt to practice osteopathic medicine without a license issued by the State Board, and each visit, treatment, prescription, or attempted visit, treatment, or prescription shall constitute a separate and distinct offense;

2. Obtaining of, or attempting to obtain, a license under the provisions of this act, or obtaining, or attempting to obtain, money

or any other thing of value, by fraudulent representation or false pretense;

3. Advertising as an osteopathic physician and surgeon, or practicing or attempting to practice osteopathic medicine under a false, assumed, or fictitious name, or a name other than the real name; ~~and~~ or

4. Allowing any person in ~~his~~ the licensee's employment or control to practice as an osteopathic physician and surgeon when not actually licensed to do so.

B. Any person making any willfully false oath or affirmation whenever oath or affirmation is required by this act shall be deemed guilty of perjury, and upon conviction, shall be punished as prescribed by the general laws of this state.

SECTION 20. AMENDATORY 59 O.S. 1991, Section 641, is amended to read as follows:

Section 641. A. All persons legally licensed to practice osteopathic medicine in this state, on or before the first day of July of each year, shall apply to the secretary-treasurer of said Board, on forms furnished thereby, for a renewal certificate of registration entitling such licensee to practice osteopathic medicine and surgery in Oklahoma during the next ensuing fiscal year.

B. Each such application shall be accompanied by a renewal fee in an amount sufficient to cover the cost and expense incurred by the State Board of Osteopathic Examiners, for a renewal of such person's certificate to practice osteopathic medicine.

C. In addition to the payment of such annual renewal fee each licensee so applying for a renewal of such certificate shall furnish to said State Board of Osteopathic Examiners proof that such person has attended at least two (2) days of the annual educational program conducted by the Oklahoma Osteopathic Association, or its equivalent, as determined by said licensing Board, in the fiscal

year preceding such application for a renewal, providing that the licensing Board may, in its discretion, excuse the failure of said licensee to attend said educational program in the case of illness or other unavoidable casualty rendering it impossible for said licensee to have attended said educational program.

D. The secretary of said State Board of Osteopathic Examiners shall send a written notice to every person holding a legal certificate to practice osteopathic medicine in this state, at least thirty (30) days prior to the first day of July each year, directed to the last-known address of said licensee, notifying said licensee that it will be necessary for such licensee to pay said renewal license fee as herein provided, and proper forms shall accompany said notice upon which said licensee shall make application for renewal of the certificate as herein provided for.

SECTION 21. AMENDATORY 59 O.S. 1991, Section 642, is amended to read as follows:

Section 642. A. ~~In the event that~~ If any licensee shall fail to comply with the requirements of Section 641 of this title or this section and such license is allowed to lapse, the licensee shall, upon order of the State Board of Osteopathic Examiners, forfeit the right to practice osteopathic medicine in this state and the license and certificate shall be canceled, provided, however, that the Board may reinstate such person upon the payment of all fees due, plus a penalty fee in the amount fixed by the State Board of Osteopathic Examiners not to exceed twice the amount of the license renewal fees as determined by the Board and upon the presentation of satisfactory evidence of the attendance at an educational program as provided for in Sections 637 and 641 of this title. The State Board of Osteopathic Examiners shall not place the license of any person authorized to practice osteopathic medicine in this state on inactive status.

B. Licensees who retire from such practice or desire to request cancellation of their license shall file with the State Board of Osteopathic Examiners an affidavit, on a form to be furnished by the Board, which states the date of retirement and such other facts to verify the retirement or other reasons for cancellation as the Board may deem necessary and the license shall be canceled. If a licensee desires to re-engage the practice, the licensee shall reinstate the license as provided for in Sections 637 and 641 of this title and subsection A of this section.

SECTION 22. AMENDATORY 59 O.S. 1991, Section 643, is amended to read as follows:

Section 643. The funds received pursuant to ~~Sections 641 and 642 of this title~~ the Oklahoma Osteopathic Medicine Act shall be deposited to the credit of the State Board of Osteopathic Examiners Revolving Fund and may be expended by the State Board of Osteopathic Examiners and under its direction in assisting in the enforcement of the laws of this state prohibiting the unlawful practice of osteopathic medicine, and for the dissemination of information to prevent the violation of such laws, and for the purchasing of supplies and such other expense as is necessary to properly carry out the provisions of ~~this act~~ the Oklahoma Osteopathic Medicine Act.

SECTION 23. AMENDATORY 59 O.S. 1991, Section 644, is amended to read as follows:

Section 644. There is hereby created in the State Treasury a revolving fund for the State Board of Osteopathic Examiners, to be designated the "State Board of Osteopathic Examiner's Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Board pursuant to the provisions of ~~Sections 641 and 642 of Title 59 of the Oklahoma Statutes~~ the Oklahoma Osteopathic Medicine Act. All monies accruing to the credit of said fund are hereby appropriated

and may be budgeted and expended by the Board for the purpose of enforcing the laws of this state which prohibit the unlawful practice of osteopathic medicine and for the dissemination of information to prevent the violation of such laws and for the purchase of supplies and such other expense as is necessary to properly implement the provisions of the Oklahoma Osteopathic Medicine Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims signed by an authorized employee or employees of the State Board of Osteopathic Examiners and filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 24. AMENDATORY 59 O.S. 1991, Section 645, is amended to read as follows:

Section 645. The State Board of Osteopathic Examiners shall adopt such rules ~~and regulations~~ as may be necessary to implement the provisions of the Oklahoma Osteopathic Medicine Act and may establish fees authorized but not specified in the Oklahoma Osteopathic Medicine Act.

SECTION 25. AMENDATORY 59 O.S. 1991, Section 492, is amended to read as follows:

Section 492. A. Every person shall be regarded as practicing medicine within the meaning and provisions of this act, who shall append to his name the letters "M.D.", "Doctor", "Professor", "Specialist", "Physician" or any other title, letters or designation which represent that such person is a physician, or who shall for a fee or compensation treat disease, injury or deformity of persons by any drugs, surgery, manual or mechanical treatment whatsoever.

B. Nothing in this article shall be so construed as to:

1. Prohibit the service in the case of emergency, or the domestic administration of family, remedies, or service rendered by a physician's trained assistant, a registered nurse, or a licensed

practical nurse if such service be rendered under the direct supervision and control of a licensed physician;

2. Apply to any commissioned medical officer in the United States Army, Air Force, Navy, or Marine hospital service in the discharge of his professional duties;

3. Apply to any legally qualified dentist, when engaged exclusively in the practice of dentistry;

4. Apply to any legally licensed optometrist when engaged in the practice of optometry as defined by law;

5. Apply to any physician or surgeon from another state or territory when in actual consultation with a legal practitioner of this state, if such physician or surgeon is at the time of said consultation a legal practitioner of medicine or surgery in the state or territory in which he resides, nor to any physician or surgeon residing on the border of the neighboring state, and duly authorized under the laws thereof to practice medicine and surgery therein, whose practice extends within the limits of this state; providing that such physician or surgeon shall not open an office or place to meet patients or receive calls within the limits of this state;

6. Apply to students while in actual classroom in an accredited medical school who, after completing one (1) year of study, treat diseases under the supervision of a licensed instructor;

7. Apply to students who have completed at least two (2) years of study in an accredited medical school who, as a part of their academic requirements for a degree, serve a preceptorship not to exceed ninety (90) days under the supervision of a licensed practitioner;

8. Apply to graduate students while serving the initial year of hospital training (internship or residency) in a hospital approved for intern and residency training by the State Board of Medical Licensure and Supervision;

9. Interfere in any way with the practice of those who endeavor to prevent or cure disease or suffering by spiritual means or prayer.

C. A hospital or related institution as such terms are defined in Section 1-701 of Title 63 of the Oklahoma Statutes, which has the principal purpose or function of providing hospital or medical care, ~~and which is a charitable institution within the meaning of Section 170(b)(1)(A)(iii) of the Internal Revenue Code of 1986,~~ including but not limited to any corporation, association, trust, or other organization organized and operated for such purpose, may employ one (1) or more persons who are duly licensed to practice medicine in this state without being regarded as itself practicing medicine within the meaning and provisions of this section. The employment by the hospital or related institution of any person who is duly licensed to practice medicine in this state shall not, in and of itself, be considered as an act of unprofessional conduct by the person so employed. Nothing provided herein shall eliminate, limit or restrict the liability for any act or failure to act of any hospital, any hospital's employees or persons duly licensed to practice medicine.

SECTION 26. This act shall become effective July 1, 1993.

SECTION 27. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the Senate the 6th day of April, 1993.

President of the Senate

Passed the House of Representatives the ____ day of _____, 1993.

Speaker of the House of Representatives