

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1460

By: Roach

AS INTRODUCED

An Act relating to professions and occupations;  
amending 59 O.S. 1991, Section 509, as amended by  
Section 1, Chapter 338, O.S.L. 1993 (59 O.S. Supp.  
1994, Section 509), which relates to unprofessional  
conduct; authorizing civil liability for certain  
disclosure without patient consent; providing for  
damages; providing exception; and providing an  
effective date.

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 509, as  
amended by Section 1, Chapter 338, O.S.L. 1993 (59 O.S. Supp. 1994,  
Section 509), is amended to read as follows:

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

1. Procuring, aiding or abetting a criminal operation;
2. Advertising to the public in any manner; provided, however,  
that a person, firm, association or corporation may place an  
announcement in a newspaper regarding the opening of an office,  
change of an address or membership in a firm, association or

corporation, the closing of an office, permanent or temporary, for whatever reason, and the specialty or specialties of person or persons, firm, association or corporation;

3. The obtaining of any fee or offering to accept any fee, present or other form of remuneration whatsoever, on the assurance or promise that a manifestly incurable disease can or will be cured;

4. Willfully betraying a professional secret to the detriment of the patient;

5. Habitual intemperance or the habitual use of habit-forming drugs;

6. Conviction of a felony or of any offense involving moral turpitude;

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

8. Conviction or confession of a crime involving the violation of the antinarcotic or prohibition laws and regulations of the federal government or the Board of Health laws and regulations of the State of Oklahoma;

9. Dishonorable or immoral conduct which is likely to deceive or defraud the public;

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

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

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

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

14. The violation, or attempted violation, direct or indirect, of any of the provisions of this act, either as a principal, accessory or accomplice;

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

16. The inability to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this subsection the Board may, upon probable cause, request a physician to submit to a mental or physical examination by physicians designated by it. If the physician refuses to submit to the examination, the Board shall issue an order requiring the physician to show cause why he will not submit to the examination and shall schedule a hearing on the order within thirty (30) days after notice is served on the physician. The physician shall be notified by either personal service or by certified mail with return receipt requested. At the hearing, the physician and his attorney are entitled to present any testimony and other evidence to show why the physician should not be required to submit to the examination. After a complete hearing, the Board shall issue an order either requiring the physician to submit to the examination or withdrawing the request for examination. The medical license of a physician ordered to submit for examination may be suspended until the results of such examination are received and reviewed by the Board;

17. Prescribing, dispensing or administering of controlled substances or narcotic drugs in excess of the amount considered good medical practice, or prescribing, dispensing or administering controlled substances or narcotic drugs without medical need in accordance with published standards; or

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

B. Notwithstanding any other provision of law, any physician or other health care provider who discloses patient information without written consent of the patient, shall be subject to liability to the patient for any damages caused thereby. Provided, however, this subsection shall not apply to information or data disclosed without the written consent of the patient which does not identify any specific patient.

SECTION 2. This act shall become effective November 1, 1995.

45-1-6037

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