

SHORT TITLE: Allopathic and osteopathic medicine; requiring licensure of persons performing certain acts through electronic communications; effective date.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 745

By: Williams (Don)

AS INTRODUCED

An Act relating to allopathic and osteopathic medicine; amending 59 O.S. 1991, Sections 492, as last amended by Section 12, Chapter 323, O.S.L. 1994 and 622, as amended by Section 3, Chapter 230, O.S.L. 1993 (59 O.S. Supp. 1995, Sections 492 and 622), which relate to certain practices for which licensure is required; requiring licensure of persons performing certain acts through electronic communications with certain exceptions; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 492, as last amended by Section 12, Chapter 323, O.S.L. 1994 (59 O.S. Supp. 1995, Section 492), is amended to read as follows:

Section 492. A. Every person shall be regarded as practicing allopathic 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 any form of compensation diagnose and/or treat disease, injury or deformity of persons by any allopathic legend drugs, surgery, manual or mechanical treatment unless otherwise authorized by law.

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 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.

C. The definition of the practice of medicine and surgery shall include, but is not limited to:

1. Advertising, holding out to the public, or representing in any manner that one is authorized to practice medicine and surgery in this state;

2. Any offer or attempt to prescribe, order, give or administer any drug or medicine and surgery for the use of any other person, except as otherwise authorized by law;

3. a. Any offer or attempt, except as otherwise authorized by law, to prevent, diagnose, correct or treat in any manner or by any means, methods, devices or instrumentalities except for manual manipulation any disease, illness, pain, wound, fracture, infirmity, defect or abnormal physical or mental condition of any person, including the management of pregnancy and parturition, except as otherwise authorized by law.

b. Except as provided in subsection D of this section, performance by a person within or outside of this state of diagnostic or treatment services through electronic communications for any patient whose condition is being diagnosed or treated within this state. In the case of electronic transmission of radiographic images, licensure is required for out-of-state physicians who provide, through an ongoing regular arrangement, official written reports of their diagnostic evaluations to in-state physicians or patients.

c. Nothing in this act shall be construed to affect or give jurisdiction to the Board over any person other than medical doctors or persons holding themselves out as medical doctors;

4. Any offer or attempt to perform any surgical operation upon any person, except as otherwise authorized by law; and

5. The use of the title Doctor of Medicine, Physician, Surgeon, Physician and Surgeon, Dr., M.D. or any combination thereof in the conduct of any occupation or profession pertaining to the prevention, diagnosis, or treatment of human disease or condition unless, where appropriate, such a designation additionally contains the description of another branch of the healing arts for which one holds a valid license in this state.

D. The practice of medicine and surgery, as defined in this section, shall not include:

1. A student while engaged in training in a medical school approved by the Board or while engaged in graduate medical training under the supervision of the medical staff of a hospital or other health care facility approved by the state medical board for such training, except that a student engaged in graduate medical training shall hold a license issued by the Board for such training;

2. Any person who provides medical treatment in cases of emergency where no fee or other consideration is contemplated, charged or received;

3. A commissioned medical officer of the armed forces of the United States or medical officer of the United States Public Health Service of the Veterans Administration of the United States in the discharge of official duties and/or within federally controlled facilities; and provided that such person shall be fully licensed to practice medicine and surgery in one or more jurisdictions of the United States; provided further that such person who holds a medical license in this state shall be subject to the provisions of this act;

4. Any person licensed under any other act when properly practicing in the healing art for which that person is duly licensed;

5. The practice of those who endeavor to prevent or cure disease or suffering by spiritual means or prayer;

6. Any person administering a domestic or family remedy to a member of his or her own family;

7. Any person licensed to practice medicine and surgery in another state or territory of the United States who renders emergency medical treatment or briefly provides critical medical service at the specific lawful direction of a medical institution or federal agency that assumes full responsibility for that treatment or service and is approved by the Board;

8. Any person who is licensed to practice medicine and surgery in another state or territory of the United States whose sole purpose and activity is limited to brief actual consultation with a specific physician who is licensed to practice medicine and surgery by the Board, other than a person with a special or restricted license; or

9. The practices of other persons licensed by appropriate agencies of the State of Oklahoma, provided that such duties are consistent with the accepted standards of the person's profession and the person does not represent himself or herself as a Doctor of Medicine, Physician, Surgeon, Physician and Surgeon, Dr., M.D., or any combination thereof.

E. Nothing in the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act shall prohibit service rendered by a physician's trained assistant, if such service is rendered under the supervision and control of a licensed physician or the service of any other person duly licensed or certified by the state to practice the healing arts.

F. Nothing in the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act shall prohibit services rendered by any person practicing any nonallopathic healing practice.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 622, as amended by Section 3, Chapter 230, O.S.L. 1993 (59 O.S. Supp. 1995, Section 622), is amended to read as follows:

Section 622. A. 1. 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.

2. A person within or outside of this state who performs through electronic communications diagnostic or treatment services within the scope of practice of an osteopathic physician and surgeon for any patient whose condition is being diagnosed or treated within this state shall be licensed in this state, pursuant to the provisions of Section 620 et seq. of this title. In the case of electronic transmission of radiographic images, licensure is

required for out-of-state osteopathic physicians who provide, through an ongoing regular arrangement, official written reports of their diagnostic evaluations to in-state physicians or patients. However, in such cases, a nonresident osteopathic physician who, while located outside this state, consults on an irregular basis with a physician who is located in this state is not engaged in the practice of osteopathic medicine in this state.

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 3. This act shall become effective November 1, 1996.

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