STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 2385 By: Roach

AS INTRODUCED

An Act relating to professions and occupations; amending 59 O.S. 1991, Section 509, as last amended by Section 8, Chapter 211, O.S.L. 1995 (59 O.S. Supp. 1997, Section 509), which relates to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act; clarifying language; 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 last amended by Section 8, Chapter 211, O.S.L. 1995 (59 O.S. Supp. 1997, Section 509), is amended to read as follows:

Section 509. The words "unprofessional conduct" as used in ~~Sections 481 through 514 of this title~~ the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act 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 violation of:

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

b. the laws of this state, or

c. State Board of Health rules;

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~~ the Oklahoma Allopathic Medical and Surgical Licensure and Supervision 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 the physician 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 the physician's 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 the 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 physical conduct with a patient which is sexual in nature, or in any verbal behavior which is seductive or sexually demeaning to a patient.

SECTION 2. This act shall become effective November 1, 1998.

46-2-8502 KSM