

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

HOUSE BILL HB2157

By: Gray

AS INTRODUCED

An Act relating to professions and occupations; requiring certain physicians to fully understand certain contractual terms; requiring certain oaths; providing grounds for termination; amending 59 O.S. 1991, Section 509, as last amended by Section 10, Chapter 324, O.S.L. 1998, (59 O.S. Supp. 1999, Section 509), which relates to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act; adding to conduct determined to be unprofessional; amending 63 O.S. 1991, Section 2505, as last amended by Section 4, Chapter 404, O.S.L. 1997 (63 O.S. Supp., 1999, Section 2505), which relates to health maintenance organizations and prepaid health plans; adding to certain prohibitions which constitute unprofessional conduct for certain physicians; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 508.3a of Title 59, unless there is created a duplication in numbering, reads as follows:

Any physician who contracts with a managed health care entity for the purpose of providing health care services to the patients of the managed health care entity shall fully understand the contractual terms to which the physician has agreed to in order to provide health care services. The physician must sign an oath that the physician is fully aware of the policies and procedures of the individual health plans including the patients' rights outlined in the Truth and Treatment Act. A physician's misrepresentation of policies and procedures as stated in the Truth and Treatment Act shall be grounds for termination from the health plans.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 509, as last amended by Section 10, Chapter 324, O.S.L. 1998 (59 O.S. Supp. 1999, 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, defraud, or harm the public;

10. The commission of any act which is a violation of the criminal laws of any 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 State Board of Medical Licensure and Supervision 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;

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;

19. Failure to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment of the patient; ~~or~~

20. Failure to provide necessary ~~on-going~~ ongoing medical treatment when a doctor-patient relationship has been established, which relationship can be severed by either party providing a reasonable period of time is granted; or

21. Falsely advising a patient that a health maintenance organization or prepaid health plan has denied or restricted a referral to a specialist.

SECTION 3. AMENDATORY 63 O.S. 1991, Section 2505, as last amended by Section 4, Chapter 404, O.S.L. 1997 (63 O.S. Supp. 1999, Section 2505), is amended to read as follows:

Section 2505. A. Health maintenance organizations and prepaid health plans shall provide comprehensive health services directly or by contract or agreement with other persons, corporations, institutions, associations, foundations or other legal entities, public or private, in accordance with Section 2501 et seq. of this title and the laws governing such professions and services. With respect to chiropractic services, such covered services shall be provided on a referral basis within the network at the request of an enrollee who has a condition of an orthopedic or neurological nature if:

1. A referral is necessitated in the judgment of the primary care physician; and

2. Treatment for the condition falls within the licensed scope of practice of a chiropractic physician.

B. Such organizations and plans may contract or agree with other persons to provide actuarial, underwriting, marketing, billing, fiscal, and other services as may be required for the operation of a health maintenance organization or prepaid health plan.

C. Health maintenance organizations and prepaid health plans may contract to provide certain selected comprehensive health services for organizations or corporations which provide certain other comprehensive health services to their members or employees through alternative health care plans.

D. 1. A health maintenance organization or prepaid health plan shall not:

a. engage in the practice of medicine or any other profession except as provided by law, or

- b. prohibit or restrict a primary care physician from referring a patient to a specialist within the network if such referral is deemed medically necessary in the judgment of the primary care physician.

2. A primary care physician who falsely advises a patient that a health maintenance organization or prepaid health plan has denied or restricted a referral to a specialist shall be deemed to have committed unprofessional conduct as certified in Section 509 of Title 59 of the Oklahoma Statutes.

~~2.~~ E. A health maintenance organization or prepaid health plan shall provide comprehensive health services in a manner that is reasonably geographically convenient to residents of the service area for which it seeks a license.

~~E.~~ F. A health maintenance organization or prepaid health plan may adjust its prepaid premium to permit financial risk-sharing with other organizations or corporations which contract with the health maintenance organization or prepaid health plan to provide such selected services.

SECTION 4. This act shall become effective November 1, 2000.

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