

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

HOUSE BILL NO. 1189

By: Thornbrugh

AS INTRODUCED

An Act relating to professions and occupations; amending Section 33, Chapter 323, O.S.L. 1994 (59 O.S. Supp. 1998, Section 509.1), which relates to disciplinary actions which may be imposed by the State Board of Medical Licensure and Supervision; adding disciplinary action for surrender of license in lieu of prosecution procedure; providing procedures; requiring certain statements; providing for costs; and providing an effective date.

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

SECTION 1. AMENDATORY Section 33, Chapter 323, O.S.L. 1994 (59 O.S. Supp. 1998, Section 509.1), is amended to read as follows:

Section 509.1 A. RANGE OF ACTIONS: The State Board of Medical Licensure and Supervision may impose disciplinary actions in accordance with the severity of violation of ~~this act~~ the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act. Disciplinary actions may include but are not limited to the following:

1. Revocation of the medical license;
2. Suspension of the medical license;
3. Probation;
4. Stipulations, limitations, restrictions, and conditions relating to practice;
5. Censure (including specific redress, if appropriate);
6. Reprimand;
7. A period of free public or charity service; and
8. Satisfactory completion of an educational, training, and/or treatment program or programs.

Provided, as a condition of disciplinary action sanctions, the Board may impose as a condition of any disciplinary action, the payment of costs expended by the Board for any legal fees and costs and probation and monitoring fees, including but not limited to staff time, salary and travel expense, witness fees and attorney fees. The Board may take such actions singly or in combination as the nature of the violation requires.

B. LETTER OF CONCERN: The Board may authorize the secretary to issue a letter of concern to a licensee when evidence does not warrant formal proceedings, but the secretary has noted indications of possible errant conduct that could lead to serious consequences and formal action. The letter of concern may contain, at the secretary's discretion, clarifying information from the licensee.

C. EXAMINATION/EVALUATION: The Board may, upon reasonable cause, require professional competency, physical, mental, or chemical dependency examinations of any licensee, including withdrawal and laboratory examination of body fluids.

D. DISCIPLINARY ACTION AGAINST LICENSEES:

1. The Board shall promulgate and adopt rules of Professional Conduct for professional conduct of physicians ~~under this act~~ pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act; and

2. Grounds for Action: The Board may take disciplinary action for unprofessional or unethical conduct as deemed appropriate based upon the merits of each case and as set out by rule. The Board shall not revoke the license of a person otherwise qualified to practice allopathic medicine within the meaning of ~~this act~~ the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act solely because the person's practice or a therapy is experimental or nontraditional.

Reports of all disciplinary action provided for in this section will be available to the public upon request.

E. SURRENDER IN LIEU OF PROSECUTION: The Board may accept a surrender of license from a licensee who has engaged in unprofessional conduct in lieu of Board staff prosecuting a pending disciplinary action or filing formal disciplinary proceedings only as provided in this section. To effect such a surrender, the licensee must submit a sworn statement to the Board:

1. Expressing the licensee's desire to surrender the license;

2. Acknowledging that the surrender is freely and voluntarily made, that the licensee has not been subjected to coercion or duress, and that the licensee is fully aware of the consequences of the license surrender;

3. Stating that the licensee is the subject of an investigation or proceeding by the Board or a law enforcement or other regulatory agency involving allegations which, if proven, would constitute grounds for disciplinary action by the Board; and

4. Specifically describing the misconduct.

The sworn written statement must be submitted with the licensee's wallet card and wall certificate. The Secretary or Executive Director of the Board may accept the sworn statement, wallet card and wall certificate from a licensee pending formal acceptance by the Board. The issuance of a complaint and citation by the Board shall not be necessary for the Board to accept a surrender under this section. A surrender under this section shall be considered disciplinary action by the Board in all cases, even in cases where surrender occurs prior to the issuance of a formal complaint and citation, and shall be reported as disciplinary action by the Board to the public and any other entity to whom the Board regularly reports disciplinary actions. As a condition to acceptance of the surrender, the Board may require the licensee to pay the costs expended by the Board for any legal fees and costs and any investigation, probation and monitoring fees, including but not

limited to staff time, salary and travel expense, witness fees and attorney fees.

SECTION 2. This act shall become effective November 1, 1999.

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