

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL 2078

By: Adkins of the House

and

Cain of the Senate

COMMITTEE SUBSTITUTE

An Act relating to professions and occupations; amending 59 O.S. 2001, Sections 493.1, 493.2, 508, 509.1 and 512, which relate to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act; authorizing additional foreign institutions for postgraduate medical training; providing for acceptance of clerkships for foreign students; providing process; requiring submission of certified copies; expanding disciplinary authority of the State Board of Medical Licensure and Supervision; providing time period for reapplications for licensure by certain persons; modifying certain requirement for certain investigators; and declaring an emergency.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 493.1, is amended to read as follows:

Section 493.1 A. An applicant to practice medicine and surgery in this state shall provide to the State Board of Medical Licensure and Supervision and attest to the following information and documentation in a manner required by the Board:

1. The applicant's full name and all aliases or other names ever used, current address, social security number and date and place of birth;

2. A signed and notarized photograph of the applicant, taken within the previous twelve (12) months;

3. Originals of all documents and credentials required by the Board, or notarized photocopies or other verification acceptable to the Board of such documents and credentials;

4. A list of all jurisdictions, United States or foreign, in which the applicant is licensed or has applied for licensure to practice medicine and surgery or is authorized or has applied for authorization to practice medicine and surgery;

5. A list of all jurisdictions, United States or foreign, in which the applicant has been denied licensure or authorization to practice medicine and surgery or has voluntarily surrendered a license or an authorization to practice medicine and surgery;

6. A list of all sanctions, judgments, awards, settlements, or convictions against the applicant in any jurisdiction, United States or foreign, that would constitute grounds for disciplinary action under this act or the Board's rules;

7. A detailed educational history, including places, institutions, dates, and program descriptions, of all his or her education, including all college, preprofessional, professional, and professional graduate education;

8. A detailed chronological life history from age eighteen (18) years to the present, including places and dates of residence, employment, and military service (United States or foreign) and all professional degrees or licenses or certificates now or ever held; and

9. Any other information or documentation specifically requested by the Board that is related to the applicant's ability to practice medicine and surgery.

B. The applicant shall possess a valid degree of Doctor of Medicine from a medical college or school located in the United States, its territories or possessions, or Canada that was approved by the Board or by a private nonprofit accrediting body approved by the Board at the time the degree was conferred. The application

shall be considered by the Board based upon the product and process of the medical education and training.

C. The applicant shall have satisfactorily completed twelve (12) months of progressive postgraduate medical training approved by the Board or by a private nonprofit accrediting body approved by the Board in an institution in the United States, its territories or possessions, or in programs in Canada, England, Scotland or Ireland approved by the Board or by a private nonprofit accrediting body approved by the Board.

D. The applicant shall submit a history from the Administration of the Medical School from which the applicant graduated of any suspension, probation, or disciplinary action taken against the applicant while a student at that institution.

E. The applicant shall have passed medical licensing examination(s) satisfactory to the Board.

F. The applicant shall have demonstrated a familiarity with all appropriate statutes and rules and regulations of this state and the federal government relating to the practice of medicine and surgery.

G. The applicant shall be physically, mentally, professionally, and morally capable of practicing medicine and surgery in a manner reasonably acceptable to the Board and in accordance with federal law and shall be required to submit to a physical, mental, or professional competency examination or a drug dependency evaluation if deemed necessary by the Board.

H. The applicant shall not have committed or been found guilty by a competent authority, United States or foreign, of any conduct that would constitute grounds for disciplinary action under this act or rules of the Board. The Board may modify this restriction for cause.

I. Upon request by the Board, the applicant shall make a personal appearance before the Board or a representative thereof for interview, examination, or review of credentials. At the discretion

of the Board, the applicant shall be required to present his or her original medical education credentials for inspection during the personal appearance.

J. The applicant shall be held responsible for verifying to the satisfaction of the Board the identity of the applicant and the validity of all credentials required for his or her medical licensure. The Board may review and verify medical credentials and screen applicant records through recognized national physician information services.

K. The applicant shall have paid all fees and completed and attested to the accuracy of all application and information forms required by the Board.

L. Grounds for the denial of a license shall include:

1. Use of false or fraudulent information by an applicant;
2. Suspension or revocation of a license in another state unless the license has been reinstated in that state;
3. Refusal of licensure in another state other than for examination failure; and
4. Multiple examination failures.

M. The Board shall not deny a license to a person otherwise qualified to practice allopathic medicine within the meaning of this act solely because the person's practice or a therapy is experimental or nontraditional.

SECTION 2. AMENDATORY 59 O.S. 2001, Section 493.2, is amended to read as follows:

Section 493.2 A. Foreign applicants shall meet all requirements for licensure as provided in Sections ~~13~~ 492.1 and ~~14~~ 493.1 of this ~~act~~ title.

B. ~~Such~~ A foreign applicant shall possess the degree of Doctor of Medicine or a Board-approved equivalent based on satisfactory completion of educational programs from a school with education and training substantially equivalent to that offered by the University

of Oklahoma College of Medicine. In the event clerkships were utilized by the foreign medical school, such clerkships shall have been performed in hospitals and schools in the United States, its territories or possessions, that have Accreditation Council for Graduate Medical Education (ACGME) accredited programs.

C. ~~Such applicants~~ A foreign applicant shall have a command of the English language that is satisfactory to the State Board and of Medical Licensure and Supervision, demonstrated by the passage of an oral English competency examination.

D. The Board may promulgate rules requiring all ~~such~~ foreign applicants to satisfactorily complete ~~satisfactorily~~ at least twelve (12) months and up to twenty-four (24) months of Board-approved progressive graduate medical training as determined necessary by the Board for the protection of the public health, safety and welfare.

E. All credentials, diplomas and other required documentation in a foreign language submitted to the Board by such applicants shall be accompanied by notarized English translations.

F. ~~Such~~ Foreign applicants shall provide satisfactory evidence of having met the requirements for permanent residence or temporary nonimmigrant status as set forth by the United States Immigration and Naturalization Service.

G. Foreign applicants shall provide a certified copy of the Educational Commission for Foreign Medical Graduates (ECFMG) Certificate to the Board at such time and in such manner as required by the Board.

SECTION 3. AMENDATORY 59 O.S. 2001, Section 508, is amended to read as follows:

Section 508. A. Whenever any license has been procured or obtained by fraud or misrepresentation, or was issued by mistake; or if the diploma of graduation in medicine and surgery or any other credentials required as necessary to the admission to the examination for license were obtained by fraud or misrepresentation

or were issued by mistake; or if the reciprocity endorsement from another state, upon which a license has been issued in this state, was procured by fraud or misrepresentation, or was issued by mistake, it shall be the duty of the State Board of Medical Licensure and Supervision to ~~revoke such license~~ take appropriate disciplinary action in the same manner as is provided by ~~this act~~ the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act for ~~the revocation of license for~~ the disciplining of unprofessional conduct.

B. Use of fraudulent information to obtain a license shall be a misdemeanor offense, punishable, upon conviction, by the imposition of a fine of not less than One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment.

SECTION 4. AMENDATORY 59 O.S. 2001, 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 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 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 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. 1. 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~~

a. expressing the licensee's desire to surrender the license~~†,~~

~~2. Acknowledging~~

b. 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~~

c. 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~~

d. specifically admitting to and describing the misconduct.

2. 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~~ subsection. A surrender under this ~~section~~ subsection 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.

3. 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.

4. The licensee whose surrender in lieu of prosecution is accepted by the Board shall be ineligible to reapply for reinstatement of his or her license for at least one (1) year from the date of the accepted surrender.

SECTION 5. AMENDATORY 59 O.S. 2001, Section 512, is amended to read as follows:

Section 512. The secretary of the State Board of Medical Licensure and Supervision shall be paid an annual salary in an amount fixed by the Board. The Board shall have the authority to expend such funds as are necessary in carrying out the duties of the Board and shall have the authority to hire all necessary personnel, at salaries to be fixed by the Board, as the Board shall deem necessary. The Board shall have the authority to hire attorneys to represent the Board in all legal matters and to assist authorized state and county officers in prosecuting or restraining violations of Section 481 et seq. of this title, and to fix the salaries or per diem of said attorneys.

The Board shall have the authority to hire one or more investigators as may be necessary to carry out the provisions of this act at an annual salary to be fixed by the Board. Such investigators ~~shall~~ may be commissioned peace officers of this state. In addition such investigators shall have the authority and

duty to investigate and inspect the records of all persons in order to determine whether or not the narcotic laws or the dangerous drug laws have been complied with.

The Board is specifically authorized to contract with state agencies or other bodies to perform investigative services at a rate set by the Board.

The Board is authorized to pay the travel expenses of Board employees and members in accordance with the State Travel Reimbursement Act.

The expenditures authorized herein shall not be a charge against the state, but the same shall be paid solely from the Board's depository fund.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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CJ

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