

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 531

By: Helton of the Senate

and

Kirby of the House

AS INTRODUCED

An Act relating to professions and occupations; creating the Oklahoma Homeopathic Physicians and Surgeons Act; providing short title; stating purpose and exceptions thereto; providing for construction of act; defining terms; prohibiting practice of homeopathic medicine and surgery after specified date unless licensed under act; stating exceptions to licensing requirement; stating jurisdiction for causes of action; allowing hospitals to employ homeopathic physicians without hospital being regarded as practicing homeopathic medicine; stating that specified employment is not an act of unprofessional conduct; prohibiting limiting of liability; creating the State Board of Homeopathic Medical Licensure and Supervision; making Board subject to Sunset Law; providing for number of members, appointments, qualifications, terms of office, and filling of vacancies; providing rule-making authority; requiring oath of office of all members and additional oath of physician members; providing for annual election of Board officers; stating duties of officers; requiring bonding of Board members and employees; authorizing employment of executive director and, subject to legislative limits, other personnel, including legal counsel and investigators; authorizing inspection of records and premises and making denial of access grounds for denial, nonrenewal, suspension or revocation of license; providing for search warrants; making Board records subject to Open Records Act; providing for maintaining specified records; proclaiming record prima facie evidence of its contents; stating requirements for application for license, including payment of fees determined by Board; requiring written notice of times and places of examination; providing educational standards and requirements; providing for issuance of license; making exception to examination requirement; requiring reporting of births and deaths after specified date and acceptance of reports; stating grounds for refusal to examine applicant, issue or reinstate license, and for allowing suspension or revocation of license; requiring due process; providing for issuance of subpoenas; providing for appeal of revocation or suspension of license; making additional acts of unprofessional conduct

grounds for refusing to issue or reinstate a license; providing for conditioning, suspending, or revoking a license or for other disciplinary actions; making actions misdemeanors; providing for fines and imprisonment; declaring certain actions perjury; authorizing application forms for renewal certificates of registration; requiring continuing education and providing exception; requiring renewal notice; providing for cancellation and reinstatement of licenses under certain circumstances; prohibiting placement of licenses on inactive status; creating revolving fund; providing for appropriation, budgeting, and expenditure of monies for stated purposes; allowing establishment of additional fees; amending 59 O.S. 1991, Section 725.2, as last amended by Section 1, Chapter 52, O.S.L. 2000 (59 O.S. Supp. 2000, Section 725.2), which relates to the healing arts; amending 59 O.S. 1991, Section 738.1, as amended by Section 4, Chapter 207, O.S.L. 1995 (59 O.S. Supp. 2000, Section 738.1), which relates to injunctions granted without bond to specified boards; amending 36 O.S. 1991, Section 1254, as renumbered by Section 20, Chapter 342, O.S.L. 1994, and as last amended by Section 7, Chapter 353, O.S.L. 2000 (36 O.S. Supp. 2000, Section 1250.5), which relates to unfair claim settlement practices; amending 36 O.S. 1991, Section 3634, as amended by Section 1, Chapter 26, O.S.L. 1993 (36 O.S. Supp. 2000, Section 3634), which relates to procedure for individuals who may perform medical or surgical services or procedures; amending 36 O.S. 1991, Section 6054, as last amended by Section 2, Chapter 331, O.S.L. 1999 (36 O.S. Supp. 2000, Section 6054), which relates to the Health Care Freedom of Choice Act; amending 47 O.S. 1991, Section 15-112, as last amended by Section 7, Chapter 189, O.S.L. 2000 (47 O.S. Supp. 2000, Section 15-112), which relates to certain disabled placards; amending 59 O.S. 1991, Section 353.1, as last amended by Section 1, Chapter 128, O.S.L. 1998 (59 O.S. Supp. 2000, Section 353.1), which relates to the Oklahoma Pharmacy Act; amending 59 O.S. 1991, Section 355, as amended by Section 4, Chapter 250, O.S.L. 1997 (59 O.S. Supp. 2000, Section 355), which relates to dangerous drugs; amending 63 O.S. 1991, Section 2601, which relates to health services for minors; amending 63 O.S. 1991, Section 1-707a, as last amended by Section 7, Chapter 93, O.S.L. 1999 (63 O.S. Supp. 2000, Section 1-707a), which relates to hospitals; amending 68 O.S. 1991, Section 1357.6, which relates to tax exemptions; amending 85 O.S. 1991, Section 14, as last amended by Section 2, Chapter 248, O.S.L. 2000 (85 O.S. Supp. 2000, Section 14), which relates to Workers' Compensation; including homeopathic physicians and surgeons within persons which are included within scope of sections; 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 3001 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Sections 1 through 17 of this act shall be known and may be cited as the "Oklahoma Homeopathic Physicians Act".

B. The purpose of this act is to establish, pursuant to the Oklahoma Homeopathic Physicians Act as administered by the State Board of Homeopathic Medical Licensure and Supervision, an opportunity for licensure in homeopathic medicine and surgery. It is not, however, the purpose of this act to require licensure of persons using lay homeopathy or homeopathic, naturopathic, or Native American remedies, rituals, or procedures provided they do not hold themselves out to be homeopathic physicians or surgeons. Furthermore, nothing in the Oklahoma Homeopathic Physicians Act shall be construed as denying or impairing the right of any licensed allopathic, osteopathic, or chiropractic physician or other person licensed pursuant to the Allopathic Medical and Surgical Licensure and Supervision Act, the Oklahoma Osteopathic Medicine Act, or the Oklahoma Chiropractic Practice Act from engaging in the practice for which licensed.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3002 of Title 59, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Homeopathic Physicians Act:

1. "Homeopathic medicine and surgery" is defined as a system of healing which utilizes generally accepted physical, pharmacological, homeopathic, and surgical methods of diagnosis and therapy, including, but not limited to, the use of body mechanics, manipulative methods, and physiological therapeutics;

2. "Surgery" means the use of electrical and other methods for the surgical repair and care incident to tears, evulsions or cuts

situated in the cutaneous and subcutaneous structures, including the tela subcutanes of the human body, including anal and oral tissue; or to remove by surgical means pathological states such as foreign bodies or traumatic discontinuities causing loss of function of these same structures, and to utilize any substance that will inhibit the growth and development of microorganisms that might have connection with the before mentioned pathological states and to administer localized anesthetic in connection therewith; and

3. "Homeopathic manipulative therapy" means the application of accurately determined and specifically directed manual forces to the body by a homeopathic physician, the objective of which, along with restoring normal physiological function, is to improve mobility in areas that are restricted whether the restrictions are within any joint or body tissue, and the consequences of which may be the elimination of or the alleviation of somatic dysfunction or the improvement of posture and locomotion, the improvement of function elsewhere in the body, or the enhancement of the sense of well-being.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3003 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 2002, except as otherwise provided by this section, it shall be unlawful for any person to practice as a homeopathic medical physician and surgeon in this state without a license to do so issued by the State Board of Homeopathic Medical Licensure and Supervision.

B. 1. Effective July 1, 2002, a person within or outside of this state who performs, through electronic communications, diagnostic or treatment services within the scope of practice of a homeopathic medical 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 the Oklahoma

Homeopathic Physicians Act. However, in such cases, a nonresident homeopathic medical physician who, while located outside this state, consults on an irregular basis with a physician who is located in this state, is not required to be licensed in this state.

2. Persons who perform any of the functions covered by this subsection submit themselves to the jurisdiction of the courts of this state for the purposes of any cause of action resulting from the functions performed.

C. A hospital or related facility or program 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 licensed to practice homeopathic medicine and surgery in this state without being regarded as itself practicing homeopathic medicine within the meaning and provisions of this section. The employment by the hospital or related institution of any person who is licensed to practice homeopathic medicine 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 licensed to practice homeopathic medicine and surgery.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3004 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the State Board of Homeopathic Medical Licensure and Supervision to continue until July 1, 2008, in accordance with the provisions of the Oklahoma Sunset Law.

B. 1. The Board shall consist of five (5) members appointed by the Governor with the advice and consent of the Senate, four of whom

shall hold the degree of Doctor of Homeopathic Medicine (M.D.H.) at the time of appointment, and one lay member. The Governor shall appoint homeopathic physician members from a list of names submitted by the Oklahoma Homeopathic Physicians Association or a successor organization approved by the State Board of Homeopathic Medical Licensure and Supervision.

2. Initial appointments shall be as follows: one member to a term ending June 30, 2003; one member to a term ending June 30, 2004; one member to a term ending June 30, 2005; one member to a term ending June 30, 2006; and one member to a term ending June 30, 2007. The Governor shall appoint the initial members of the Board by January 1, 2002.

3. Subsequent appointments to the Board shall be for terms of five (5) years ending June 30.

4. Vacancies shall be filled in the same manner as regular appointments.

C. The Board is authorized to adopt and promulgate, pursuant to the Administrative Procedures Act, rules it deems necessary for the implementation, administration, and enforcement of the Oklahoma Homeopathic Physicians Act.

D. Each appointee to the State Board of Homeopathic Medical Licensure and Supervision shall, before entering upon the duties of the office, take the oath of office prescribed by the Oklahoma Constitution before a person qualified to administer oaths and, except for the lay member, shall make an oath that the member is a legally qualified practitioner of homeopathic medicine and surgery in this state.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3005 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. The State Board of Homeopathic Medical Licensure and Supervision shall, immediately after the initial members have been

qualified and annually thereafter, elect a president, vice-president and secretary-treasurer to terms ending June 30.

2. The president of the Board shall preside at all meetings of the Board and perform such other duties as the Board may prescribe.

3. The vice-president shall perform all the duties of the president during the president's absence or disability.

4. The secretary-treasurer shall keep a record of all proceedings of the Board and perform such other duties as are prescribed in the Oklahoma Homeopathic Physicians Act or by the Board.

B. The Board and such employees as determined by the Board shall be bonded as required by Sections 85.26 through 85.31 of Title 74 of the Oklahoma Statutes.

C. The Board is authorized to employ:

1. An executive director and such other personnel as the Board shall deem necessary, subject to statutory full-time-equivalent (FTE) limits, and fix and pay their salaries or wages;

2. Legal counsel, as needed, to represent the Board in all legal matters; and

3. One or more investigators, as needed and subject to statutory FTE limits, for investigation of written allegations of violations of the provisions of the Oklahoma Homeopathic Physicians Act and for inspection of the nonfinancial business records of persons licensed pursuant to the Oklahoma Homeopathic Physicians Act in order to determine whether licensees are in compliance with laws pertaining to the practice of homeopathic medicine and surgery.

D. Any licensee or applicant for license subject to the provisions of the Oklahoma Homeopathic Physicians Act shall be deemed to have given consent to any duly authorized employee or agent of the Board to access, enter, or inspect the records or facilities of such licensee or applicant subject to the Oklahoma Homeopathic Physicians Act. Refusal to allow such access, entry, or

inspection may constitute grounds for the denial, nonrenewal, suspension, or revocation of a license. Upon refusal of such access, entry, or inspection, the Board or a duly authorized representative may make application for and obtain a search warrant from the district court to allow such access, entry, or inspection.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3006 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Records of the State Board of Homeopathic Medical Licensure and Supervision shall be open to public inspection pursuant to the Oklahoma Open Records Act. Records maintained shall include a register showing:

1. The name, age, and place and duration of residence of each applicant;

2. The time spent in the study of homeopathic medicine and surgery;

3. The year and school from which degrees were granted;

4. The Board's proceedings relative to the issuance, refusal, renewal, suspension, or revocation of licenses applied for, and issued; and

5. The name, known place of business and residence, and the date and number of license of each registered homeopathic physician and surgeon.

B. The register shall be prima facie evidence of all matters contained therein.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3007 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Each applicant for examination pursuant to the Oklahoma Homeopathic Physicians Act shall comply with the following requirements:

1. Make application for examination on forms prepared and furnished by the State Board of Homeopathic Medical Licensure and Supervision;

2. Submit evidence, verified on oath and satisfactory to the Board, that the applicant is twenty-one (21) years of age or over, and has the preliminary and professional education required by the Oklahoma Homeopathic Physicians Act; and

3. Pay in advance to the Board the fees as determined by the State Board of Homeopathic Medical Licensure and Supervision to be sufficient to cover the cost and expense incurred by the Board for processing such application for:

- a. examination of a homeopathic physician and surgeon, and
- b. the license to one applying under the provisions of the Oklahoma Homeopathic Physicians Act.

B. The Board shall schedule examinations at a time and place fixed by the Board and shall notify all applicants thereof in writing.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3008 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The standards of preliminary education deemed requisite for admission to a school or college of homeopathic medicine and surgery in good standing are that an applicant shall have completed the admission requirements of a school of homeopathic medicine and surgery.

B. To practice as a homeopathic physician and surgeon, the applicant shall be a graduate of a duly accredited school or college which confers the Doctor of Homeopathic Medicine (M.D.H.) degree.

C. The term "school or college of homeopathic medicine and surgery" shall mean a duly accredited school or college of homeopathic medicine and surgery requiring:

1. For admission to its courses of study, a preliminary education equal to the requirements established by it; and

2. For granting the Doctor of Homeopathic Medicine (M.D.H.) degree, actual attendance at such school or college of homeopathic medicine and surgery and demonstration of successful completion of the curriculum and recommendation for graduation.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3009 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Each applicant who successfully passes the examination and has met other requirements for licensure shall be issued a license to practice as a homeopathic physician and surgeon.

B. The State Board of Homeopathic Medical Licensure and Supervision may issue a license without examination to a practitioner who is currently licensed in any country, state, territory, or province upon the following conditions:

1. That the applicant is of good moral character;

2. That the requirements of registration in the country, state, territory, or province in which the applicant is licensed are deemed by the Board to have been equivalent to the requirements of registration in force in this state at the date of such license;

3. That the applicant has no disciplinary matters pending against the applicant in any country, state, territory, or province; and

4. That the requirements for the license being reciprocated included an examination in that country, state, territory, or province deemed by the Board to be equivalent to that used by the Board.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3010 of Title 59, unless there is created a duplication in numbering, reads as follows:

On and after July 1, 2002, homeopathic physicians and surgeons shall observe and be subject to all laws and municipal ordinances pertaining to reporting births and deaths and to the public health, with equal rights and obligations as physicians of other schools of medicine, and such reports shall be accepted by the officers of the state agency or other public entity to which such reports are made.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3011 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Homeopathic Medical Licensure and Supervision may refuse to admit a person to an examination or may refuse to issue or reinstate or may suspend or revoke any license issued or reinstated by the Board upon proof that the applicant or holder of such a license:

1. Has obtained a license, license renewal, or authorization to sit for an examination through fraud, deception, misrepresentation, or bribery; or has been granted a license, license renewal, or authorization to sit for an examination based upon a material mistake of fact;

2. Has engaged in the use or employment of dishonesty, fraud, misrepresentation, false promise, false pretense, unethical conduct, or unprofessional conduct, as may be determined by the Board, in the performance of the functions or duties of a homeopathic physician and surgeon, including but not limited to the following:

a. obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception, or misrepresentation; willfully and continually overcharging or overtreating patients; or charging for visits to the physician's office which did not occur or for services which were not rendered,

- b. using intimidation, coercion, or deception to obtain or retain a patient or discourage the use of a second opinion or consultation,
- c. willfully performing inappropriate or unnecessary treatment, diagnostic tests, or homeopathic medical or surgical services,
- d. delegating professional responsibilities to a person who is not qualified by training, skill, competency, age, experience, or licensure to perform them,
- e. misrepresenting that any disease, ailment, or infirmity can be cured by a method, procedure, treatment, medicine, or device,
- f. acting in a manner which results in final disciplinary action by any professional society or association or hospital or medical staff of such hospital in this or any other state, whether agreed to voluntarily or not, if the action was in any way related to professional conduct, professional competence, malpractice, or any violation of the Oklahoma Homeopathic Physicians Act,
- g. signing a blank prescription form,
- h. dispensing, prescribing, administering, or otherwise distributing any drug, controlled substance, or other treatment:
 - (1) without sufficient examination or the establishment of a physician-patient relationship,
 - (2) for other than a medically accepted therapeutic or experimental investigational purpose authorized by a state or federal agency,
 - (3) not in good faith to relieve pain and suffering,or

(4) not to treat an ailment, physical infirmity, or disease,

- i. engaging in any sexual activity within the physician-patient relationship,
- j. terminating the care of a patient without adequate notice or without making other arrangements for the continued care of the patient,
- k. failing to furnish a copy of a patient's medical records upon a proper request from the patient or legal agent of the patient, or failing to comply with any other law relating to medical records,
- l. failing to comply with any subpoena,
- m. violating a probation agreement with or order of the Board or any other agency, and
- n. failing to keep complete and accurate records of purchase and disposal of controlled dangerous substances;

3. Has engaged in gross negligence, gross malpractice, or gross incompetence;

4. Has engaged in repeated acts of negligence, malpractice, or incompetence;

5. Has been finally adjudicated and found guilty, or has entered a plea of guilty or nolo contendere in a criminal prosecution, for any offense reasonably related to the qualifications, functions, or duties of a homeopathic physician and surgeon, or for any offense involving moral turpitude, whether or not sentence is imposed, and regardless whether an appeal is pending;

6. Has had the authority to engage in the activities regulated by the Board revoked, suspended, restricted, modified, or limited, or has been reprimanded, warned or censured, probated, or otherwise disciplined by any other state or federal agency whether or not

voluntarily agreed to by the physician, including, but not limited to, the denial of licensure; surrender of the license, permit, or authority; allowing the license, permit, or authority to expire or lapse; or discontinuing or limiting the practice of homeopathic medicine pending disposition of a complaint or completion of an investigation;

7. Has violated or failed to comply with provisions of any act or rule administered by the Board;

8. Is incapable, for medical or psychiatric or any other good cause, of discharging the functions of a homeopathic physician and surgeon in a manner consistent with the public health, safety, and welfare;

9. Has been guilty of advertising by means of knowingly false or deceptive statements;

10. Has been guilty of advertising, practicing, or attempting to practice under a name other than such person's own name;

11. Has violated or refused to comply with a lawful order of the Board;

12. Has been guilty of habitual drunkenness, or habitual addiction to the use of morphine, cocaine, or other habit-forming drugs;

13. Has been guilty of personal offensive behavior including, but not be limited to, obscenity, lewdness, molestation, or other acts of moral turpitude; or

14. Has been adjudicated to be insane or incompetent or has been admitted to an institution for the treatment of psychiatric disorders.

B. The State Board of Homeopathic Medical Licensure and Supervision shall neither refuse to renew, nor suspend, nor revoke any license, however, for any of these causes, unless the person accused has been afforded due process pursuant to the Administrative Procedures Act.

C. The State Board of Homeopathic Medical Licensure and Supervision shall have the power to order or subpoena the attendance of witnesses, the inspection of records and premises, and the production of relevant books and papers for the investigation of matters that may come before them. The president of the Board shall have the authority to compel the giving of testimony as is conferred on courts of justice.

D. Any homeopathic physician and surgeon in this state whose license to practice is revoked or suspended under paragraphs 1 through 14 of subsection A of this section shall have the right to seek judicial review of a ruling of the Board pursuant to the Administrative Procedures Act.

E. The Board may enact rules pursuant to the Administrative Procedures Act setting out additional acts of unprofessional conduct, which acts shall be grounds for refusal to issue or reinstate, or for action to condition, suspend, or revoke a license.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3012 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. In addition or as an alternative to revoking, conditioning, suspending, reinstating, or refusing to renew any license, the State Board of Homeopathic Medical Licensure and Supervision may, after affording opportunity to be heard:

1. Temporarily order suspension or limitation of license;
2. Issue an order or warning, reprimand or censure with regard to any act, conduct, or practice which, in the judgment of the Board upon consideration of all relevant facts and circumstances, does not warrant the initiation of formal action;
3. Order any person violating any provision of an act or regulation administered by the Board to cease and desist from future violations thereof or to take such affirmative corrective action as

the Board deems necessary with regard to any act or practice found unlawful by the Board;

4. Order any person as a condition for continued, reinstated, or renewed licensure, or as a condition for probation or suspension, to secure medical or such other professional treatment as may be necessary to properly discharge licensee functions; or

5. Order any person, as a condition of any suspension or probation or any disciplinary action, to attend and produce evidence of successful completion of a specific term of education, residency, or training in stated fields or institutions, with the education, residency, or training to be at the expense of the person so ordered.

B. If, after considering all the testimony presented, the Board finds that the respondent has violated any provision of the Oklahoma Homeopathic Physicians Act or any rule promulgated pursuant thereto, it may impose on the respondent as a condition of any suspension, revocation, probation, or any other disciplinary action, the payment of costs expended by the Board in investigating and prosecuting said cause, such costs to include, but not be limited to, staff time, salary and travel expense, witness fees, and attorney fees.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3013 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. On and after July 1, 2002, each of the following acts shall constitute a misdemeanor, punishable upon conviction by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the county jail for not fewer than ninety (90) days nor more than one (1) year, or by both such fine and imprisonment:

1. The practice of homeopathic medicine and surgery or attempt to practice homeopathic medicine and surgery without a license issued by the State Board of Homeopathic Medical Licensure and

Supervision; and each visit, treatment, or prescription, or attempted visit, treatment, or prescription, shall constitute a separate and distinct offense;

2. Obtaining or attempting to obtain a license under the provisions of the Oklahoma Homeopathic Physicians Act, or obtaining or attempting to obtain money or any other thing of value by fraudulent representation or false pretense;

3. Advertising as a homeopathic physician and surgeon or practicing or attempting to practice homeopathic medicine and surgery under a false, assumed, or fictitious name, or a name other than the real name; or

4. Allowing any person in the licensee's employment or control to practice as a homeopathic physician and surgeon when not actually licensed to do so.

B. Any person making any willfully false oath or affirmation whenever oath or affirmation is required by the Oklahoma Homeopathic Physicians Act shall be deemed guilty of perjury, and upon conviction shall be punished as prescribed by the general laws of this state.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3014 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. On or before July 1 of every other year subsequent to initial licensure, all persons legally licensed to practice homeopathic medicine and surgery in this state shall apply to the State Board of Homeopathic Medical Licensure and Supervision, on forms furnished thereby, for a renewal certificate of registration entitling such licensee to practice homeopathic medicine and surgery in this state during the next ensuing two (2) fiscal years.

B. Each such application shall be accompanied by a renewal fee in an amount sufficient to cover the cost and expense incurred by

the Board for a renewal of such person's certificate to practice homeopathic medicine and surgery.

C. In addition to the payment of a renewal fee every two (2) years, each licensee so applying for a renewal of a certificate shall furnish to the Board proof that such person has attended within a two-year period preceding application at least twenty (20) hours of the educational program conducted by the Oklahoma Homeopathic Physicians Association, or its successor, as determined by the Board; provided, the Board may excuse the failure of said licensee to attend said educational program in the case of illness or other unavoidable casualty rendering it impossible for said licensee to have attended the educational program.

D. The Board shall send a written notice to every person holding a license to practice homeopathic medicine and surgery in this state, at least thirty (30) days prior to July 1 of every other year, directed to the last-known address of the licensee, notifying the licensee that it will be necessary for the licensee to pay the renewal license fee. Proper forms shall accompany the notice upon which the licensee shall make application for renewal.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3015 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. If any licensee shall fail to comply with the licensing requirements of the Oklahoma Homeopathic Physicians Act and such license is allowed to lapse, the licensee shall, upon order of the State Board of Homeopathic Medical Licensure and Supervision, forfeit the right to practice homeopathic medicine and surgery in this state, and the license shall be canceled; provided, however, the Board may reinstate such person upon the payment of all fees due, plus a penalty fee in an amount not to exceed twice the amount of the license renewal fee as determined by the Board, and upon the presentation of satisfactory evidence of attendance at an

educational program as otherwise provided for in the Oklahoma Homeopathic Physicians Act. The State Board of Homeopathic Medical Licensure and Supervision shall not place the license of any person authorized to practice homeopathic medicine and surgery in this state on inactive status.

B. A licensee who retires from practice or desires to request license cancellation shall file with the Board an affidavit, on a form to be furnished by the Board, which states the date of retirement and such other facts to verify the retirement or other reasons for cancellation as the Board may deem necessary, whereupon the license shall be canceled. If a licensee desires to reengage the practice, the licensee shall reinstate the license as provided for in the Oklahoma Homeopathic Physicians Act.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3016 of Title 59, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the State Board of Homeopathic Medical Licensure and Supervision, to be designated the "Homeopathic Physicians and Surgeons Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Board pursuant to the provisions of the Oklahoma Homeopathic Physicians Act. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Board for the purpose of implementing, administering, or enforcing the provisions of the Oklahoma Homeopathic Physicians Act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3017 of Title 59, unless there is created a duplication in numbering, reads as follows:

The State Board of Homeopathic Medical Licensure and Supervision may, pursuant to the Administrative Procedures Act, establish fees not specified in the Oklahoma Homeopathic Physicians Act.

SECTION 18. AMENDATORY 59 O.S. 1991, Section 725.2, as last amended by Section 1, Chapter 52, O.S.L. 2000 (59 O.S. Supp. 2000, Section 725.2), is amended to read as follows:

Section 725.2 A. The following ~~nine~~ ten classes of persons may use the word "Doctor", or an abbreviation thereof, and shall have the right to use, whether or not in conjunction with the word "Doctor", or any abbreviation thereof, the following designations:

1. The letters "D.P.M." by a person licensed to practice podiatry under Chapter 4 of this title;
2. The letters "D.C." by a person licensed to practice chiropractic under Chapter 5 of this title;
3. The letters "D.D.S." by a person licensed to practice dentistry under Chapter 7 of this title;
4. The letters "M.D." by a person licensed to practice medicine and surgery under Chapter 11 of this title;
5. The letters "O.D." by a person licensed to practice optometry under Chapter 13 of this title;
6. The letters "D.O." by a person licensed to practice osteopathy under Chapter 14 of this title;
7. The letters "M.D.H." by a person licensed to practice homeopathic medicine and surgery by the State Board of Homeopathic Medical Licensure and Supervision on and after July 1, 2002;
8. The letters "Ph.D.", "Ed.D." or "Psy.D." by a person licensed as a health service psychologist pursuant to the Psychologists Licensing Act;
- ~~8.~~ 9. The letters "Ph.D.", "Ed.D.", or other letters representing a doctoral degree by a person licensed as a speech and language pathologist pursuant to the Speech Pathology and Audiology Licensing Act and who has earned a doctoral degree from a regionally

accredited institution of higher learning in the field of speech and language pathology; and

~~9.~~ 10. The letters "Ph.D.", "Ed.D." or other letters representing a doctoral degree by a person licensed as an audiologist pursuant to the Speech Pathology and Audiology Licensing Act and who has earned a doctoral degree from a regionally accredited institution of higher learning in the field of audiology.

B. Unless otherwise specifically provided in a particular section or chapter of the Oklahoma Statutes, the word "doctor" or "doctors" shall mean and include each of the ~~nine~~ ten classes of persons listed in subsection A of this section.

C. Unless otherwise specifically provided in a particular section or chapter of the Oklahoma Statutes, the word "physician" or "physicians" shall mean and include each of the classes of persons listed in paragraphs 1 through ~~6~~ 7 of subsection A of this section. The term "physician" shall not include any person specified in paragraphs ~~7~~ 8 through ~~9~~ 10 of subsection A of this section unless such person is otherwise authorized to use such designation pursuant to this section.

SECTION 19. AMENDATORY 59 O.S. 1991, Section 738.1, as amended by Section 4, Chapter 207, O.S.L. 1995 (59 O.S. Supp. 2000, Section 738.1), is amended to read as follows:

Section 738.1 Injunctions, without bond, may be granted by district courts to the Board of Podiatric Medical Examiners, the Board of Chiropractic Examiners, the State Board of Medical Licensure and Supervision, the Board of Examiners in Optometry, the Board of Pharmacy, the State Board of Homeopathic Medical Licensure and Supervision, or the State Board of Osteopathic Examiners, for the purpose of enforcing the respective acts and laws creating and establishing these boards.

SECTION 20. AMENDATORY 36 O.S. 1991, Section 1254, as renumbered by Section 20, Chapter 342, O.S.L. 1994, and as last

amended by Section 7, Chapter 353, O.S.L. 2000 (36 O.S. Supp. 2000, Section 1250.5), is amended to read as follows:

Section 1250.5 Any of the following acts by an insurer, if committed in violation of Section 1250.3 of this title, constitutes an unfair claim settlement practice:

1. Failing to fully disclose to first party claimants, benefits, coverages, or other provisions of any insurance policy or insurance contract when such benefits, coverages or other provisions are pertinent to a claim;

2. Knowingly misrepresenting to claimants pertinent facts or policy provisions relating to coverages at issue;

3. Failing to adopt and implement reasonable standards for prompt investigations of claims arising under its insurance policies or insurance contracts;

4. Not attempting in good faith to effectuate prompt, fair and equitable settlement of claims submitted in which liability has become reasonably clear;

5. Failing to comply with the provisions of Section 1219 of this title;

6. Denying a claim for failure to exhibit the property without proof of demand and unfounded refusal by a claimant to do so;

7. Except where there is a time limit specified in the policy, making statements, written or otherwise, which require a claimant to give written notice of loss or proof of loss within a specified time limit and which seek to relieve the company of its obligations if such a time limit is not complied with unless the failure to comply with such time limit prejudices an insurer's rights;

8. Requesting a claimant to sign a release that extends beyond the subject matter that gave rise to the claim payment;

9. Issuing checks or drafts in partial settlement of a loss or claim under a specified coverage which contain language which releases an insurer or its insured from its total liability;

10. Denying payment to a claimant on the grounds that services, procedures, or supplies provided by a treating physician or a hospital were not medically necessary unless the health insurer or administrator, as defined in Section 1442 of this title, first obtains an opinion from any provider of health care licensed by law and preceded by a medical examination or claim review, to the effect that the services, procedures or supplies for which payment is being denied were not medically necessary. Upon written request of a claimant, treating physician, or hospital, such opinion shall be set forth in a written report, prepared and signed by the reviewing physician. The report shall detail which specific services, procedures, or supplies were not medically necessary, in the opinion of the reviewing physician, and an explanation of that conclusion. A copy of each report of a reviewing physician shall be mailed by the health insurer, or administrator, postage prepaid, to the claimant, treating physician or hospital requesting same within fifteen (15) days after receipt of such written request. As used in this paragraph, "physician" means a person holding a valid license to practice medicine and surgery, osteopathic medicine, homeopathic medicine and surgery, podiatric medicine, dentistry, chiropractic, or optometry, pursuant to the state licensing provisions of Title 59 of the Oklahoma Statutes;

11. Compensating a reviewing physician, as defined in paragraph 10 of this ~~subsection~~ section, on the basis of a percentage of the amount by which a claim is reduced for payment;

12. Violating the provisions of the Health Care Fraud Prevention Act;

13. Compelling, without just cause, policyholders to institute suits to recover amounts due under its insurance policies or insurance contracts by offering substantially less than the amounts ultimately recovered in suits brought by them, when such

policyholders have made claims for amounts reasonably similar to the amounts ultimately recovered;

14. Failing to maintain a complete record of all complaints which it has received during the preceding three (3) years or since the date of its last financial examination conducted or accepted by the Commissioner, whichever time is longer. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint. For the purposes of this paragraph, "complaint" means any written communication primarily expressing a grievance; or

15. Requesting a refund of all or a portion of a payment of a claim made to a claimant or health care provider more than twenty-four (24) months after the payment is made. This paragraph shall not apply:

- a. if the payment was made because of fraud committed by the claimant or health care provider, or
- b. if the claimant or health care provider has otherwise agreed to make a refund to the insurer for overpayment of a claim.

SECTION 21. AMENDATORY 36 O.S. 1991, Section 3634, as amended by Section 1, Chapter 26, O.S.L. 1993 (36 O.S. Supp. 2000, Section 3634), is amended to read as follows:

Section 3634. Medical or surgical services or procedures constituting the practice of podiatric medicine, as defined by Section 142 of Title 59 of the Oklahoma Statutes, psychological services or procedures constituting the practice of psychology, as defined by Section 1352 of Title 59 of the Oklahoma Statutes, medical or surgical services or procedures constituting the practice of homeopathic medicine and surgery, as defined by the Oklahoma Homeopathic Physicians Act, and licensed and certified clinical social work services provided by persons meeting the qualifications

required under subsection B of Section 1261.1 of Title 59 of the Oklahoma Statutes and covered by the terms of any individual, group, blanket or franchise policy, agreement or service contract providing accident or health benefits coverage in Oklahoma issued by any insurer, whether a stock or mutual insurance company, a medical service corporation or association, or any other type of issuer whatever, and covering an Oklahoma risk may be performed by any practitioner licensed to do so under Sections 136 through 160.27 or Sections 1351 through 1376 of Title 59 of the Oklahoma Statutes, Sections 1 through 19 of this act, or subsection B of Section 1261.1 of Title 59 of the Oklahoma Statutes, who is selected by the insured provided that where covered benefits are offered through a contracting preferred provider organization, the homeopathic physician and surgeon, podiatrist, psychologist, or clinical social worker is a contracting provider. Except in the case of a contracting preferred provider organization, any provision, exclusion or limitation in such a policy denying an insured the free choice of such licensed podiatric physician, homeopathic physician and surgeon, psychologist or certified clinical social worker shall, to the extent of the denial, be void, but such ~~voidance~~ voiding shall not affect the validity of the other provisions of the policy.

SECTION 22. AMENDATORY 36 O.S. 1991, Section 6054, as last amended by Section 2, Chapter 331, O.S.L. 1999 (36 O.S. Supp. 2000, Section 6054), is amended to read as follows:

Section 6054. As used in the Health Care Freedom of Choice Act:

1. "Accident and health insurance policy" or "policy" means any policy, certificate, contract, agreement or other instrument that provides accident and health insurance, as defined in Section 703 of this title, to any person in this state;

2. "Ambulatory surgical center" means any ambulatory surgery facility licensed by the State Department of Health as defined in Section 2657 of Title 63 of the Oklahoma Statutes;

3. "Home care agency" means any sole proprietorship, partnership, association, corporation, or other organization which administers, offers, or provides home care services, for a fee or pursuant to a contract for such services, to clients in their place of residence. The term "home care agency" shall not include an individual who contracts with the Department of Human Services to provide personal care services; provided, such individual shall not be exempt from certification as a home health aide;

4. "Hospital" means any facility as defined in Section 1-701 of Title 63 of the Oklahoma Statutes;

5. "Insured" means any person entitled to reimbursement for expenses of health care services and procedures under an accident and health insurance policy issued by an insurer;

6. "Insurer" means any entity that provides an accident and health insurance policy in this state, including but not limited to a licensed insurance company, a not-for-profit hospital service and medical indemnity corporation, a fraternal benefit society, a multiple employer welfare arrangement or any other entity subject to regulation by the Insurance Commissioner;

7. "Practitioner" means any person holding a valid license to practice medicine and surgery, osteopathic medicine, homeopathic medicine and surgery, chiropractic, podiatric medicine, optometry or dentistry, pursuant to the state licensing provisions of Title 59 of the Oklahoma Statutes; and

8. "Preferred provider organization (PPO)" means a network of practitioners, hospitals, home care agencies or ambulatory surgical centers, which have entered into a contract with an insurer to provide health care services under the terms and conditions established in the contract.

SECTION 23. AMENDATORY 47 O.S. 1991, Section 15-112, as last amended by Section 7, Chapter 189, O.S.L. 2000 (47 O.S. Supp. 2000, Section 15-112), is amended to read as follows:

Section 15-112. A. As used in this section:

1. "Physician" means any person holding a valid license to practice medicine and surgery, osteopathic medicine, homeopathic medicine and surgery, chiropractic, podiatric medicine, or optometry, pursuant to the state licensing provisions of Title 59 of the Oklahoma Statutes; and

2. "Physical disability" means an illness, disease, injury or condition by reason of which a person:

- a. cannot walk two hundred (200) feet without stopping to rest,
- b. cannot walk without the use of or assistance from a brace, cane, crutch, another person, prosthetic device, wheelchair or other assistance device,
- c. is restricted to such an extent that the person's forced (respiratory) expiratory volume for one (1) second, when measured by spirometry, is less than one (1) liter, or the arterial oxygen tension is less than sixty (60) mm/hg on room air at rest,
- d. must use portable oxygen,
- e. has functional limitations which are classified in severity as Class III or Class IV according to standards set by the American Heart Association,
- f. is severely limited in the person's ability to walk due to an arthritic, neurological or orthopedic condition,
- g. is certified legally blind, or
- h. is missing one or more limbs.

B. 1. The Department of Public Safety shall issue a detachable placard indicating physical disability to any person who submits an application on a form furnished by the Department and certified by a physician, attesting that the applicant has a physical disability. The attestation of the physician shall denote "temporary" as the

type of placard requested and shall indicate an expiration date which the physician estimates to be the date of termination of such physical disability; however, if the physician certifies that the physical disability is permanent, the physician shall denote "five-year" as the type of placard requested.

2. The person to whom such placard is issued shall be entitled to the special parking privileges provided for in Section 15-111 of this title; provided, however, the placard is properly displayed on the parked vehicle.

C. Any placard issued by the Department of Public Safety shall remain valid until:

1. The placard expires;

2. The person to whom the placard was issued requests a replacement placard; or

3. The placard is no longer needed by the person to whom such placard was issued for the disability for which the placard was originally issued, whereupon such placard shall be returned to the Department.

D. 1. A five-year placard shall expire five (5) years from the last day of the month in which the placard was issued. Upon the expiration of a five-year placard, the person to whom such placard was issued may obtain a subsequent placard by reapplying to the Department, in the same manner as provided in subsection B of this section.

2. A temporary placard shall indicate the expiration date which the physician certifying the physical disability estimates to be the date of termination of such physical disability, which shall not be later than six (6) months from the date of issuance and upon which date such placard shall expire and shall be returned to the Department; provided, however, nothing in this paragraph shall be construed to prevent the holder from applying for another placard, as provided for in this section.

3. In the event that a placard is lost or destroyed, the person to whom such placard was issued may apply in writing to the Department for a replacement placard, which the Department shall issue with the same expiration date as the original placard.

4. On and after January 1, 1998, all placards issued prior to October 31, 1990, shall expire on the last day of the month in which the placard was issued, and the person to whom such placard was issued may follow the procedure provided for in subsection B of this section to obtain a second or subsequent placard.

5. On and after January 1, 2000, all placards issued between November 1, 1990, and June 30, 1995, shall expire on the last day of the birth month of the person to whom the placard was issued, and the person to whom such placard was issued may follow the procedure provided for in subsection B of this section to obtain a second or subsequent placard.

E. A physician may sign an application certifying that a person has a physical disability, as provided in subsection B of this section, only if care and treatment of the illness, disease, injury or condition causing the physical disability of such person falls within the authorized scope of practice of the physician.

F. The Department shall recognize handicap and disability stickers issued by the Department of Veterans Affairs and federal military bases in the same manner as the placard issued by the Department as provided for in this section. For purposes of this section and other sections of law relating to the physical disability placard, the term "physical disability placard" shall include those handicap and disability stickers issued by the Department of Veterans Affairs and federal military bases.

G. The Department shall have the power to formulate, adopt and promulgate rules as may be necessary to implement and administer the provisions of this section, including, but not limited to,

prescribing the manner in which the placard is to be displayed on a motor vehicle.

H. The Commissioner of Public Safety is hereby authorized to enter into reciprocity agreements with other states for the purpose of recognizing parking placards or license plates indicating physical disability issued by those states.

I. The Department shall charge and the applicant shall pay to the Department a fee of One Dollar (\$1.00) for each placard issued. The fee shall be deposited in the Department of Public Safety Revolving Fund, created pursuant to Section 6-117 of this title.

SECTION 24. AMENDATORY 59 O.S. 1991, Section 353.1, as last amended by Section 1, Chapter 128, O.S.L. 1998 (59 O.S. Supp. 2000, Section 353.1), is amended to read as follows:

Section 353.1 For the purposes of the Oklahoma Pharmacy Act, ~~Section 353 et seq. of this title:~~

1. "Pharmacy" means a place regularly licensed by the Oklahoma State Board of Pharmacy in which prescriptions, drugs, medicines, chemicals and poisons are compounded or dispensed;

2. "Pharmacist" means a person registered by the Oklahoma State Board of Pharmacy to engage in the practice of pharmacy;

3. "Drugs" means all medicinal substances and preparations recognized by the United States Pharmacopoeia and National Formulary, or any revision thereof, and all substances and preparations intended for external and internal use in the cure, diagnosis, mitigation, treatment or prevention of disease in humans and all substances and preparations, other than food, intended to affect the structure or any function of the body of a human;

4. "Medicine" means any drug or combination of drugs which has the property of curing, preventing, treating, diagnosing or mitigating diseases, or which is used for that purpose;

5. "Poison" means any substance which when introduced into the system, either directly or by absorption, produces violent, morbid

or fatal changes, or which destroys living tissue with which such substance comes into contact;

6. "Chemical" means any medicinal substance, whether simple or compound or obtained through the process of the science and art of chemistry, whether of organic or inorganic origin;

7. "Prescription" means and includes any order for drug or medical supplies written or signed, or transmitted by word of mouth, telephone or other means of communication by a licensed practitioner of allopathic or osteopathic medicine, including physician assistants under the supervision of a licensed physician, dentistry, homeopathic medicine and surgery, optometry certified by the Board of Examiners in Optometry, podiatry, or veterinary medicine, licensed by law to prescribe such drugs and medical supplies intended to be filled, compounded, or dispensed by a pharmacist;

8. "Filled prescription" means a packaged prescription medication to which a label has been affixed, which shall contain such information as is required by the Oklahoma Pharmacy Act;

9. "Nonprescription drugs" means medicines or drugs which are sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes and regulations of this state and the federal government. Such items shall also include medical and dental supplies, and bottled or nonbulk chemicals which are sold or offered for sale to the general public, if such articles or preparations meet the requirements of the Federal Food, Drug and Cosmetic Act, 21 U.S.C.A., Section 321 et seq.;

10. "Hospital" means any institution licensed by this state for the care and treatment of patients;

11. "Person" means every individual, copartnership, corporation or association, unless the context otherwise requires;

12. "Board" or "State Board" means the Oklahoma State Board of Pharmacy;

13. "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient;

14. "Dispense" includes sell, distribute, leave with, give away, dispose of, deliver, or supply;

15. "Wholesaler" or "distributor" means a person engaged in the business of distributing dangerous drugs or medicines at wholesale to pharmacies, hospitals, practitioners, government agencies, or other lawful drug outlets permitted to sell or use drugs or medicines;

16. "Dangerous drug", "legend drug" or "prescription drug" means a drug which, under federal law, is required, prior to being dispensed or delivered, to be labeled with either of the following statements: (i) "Caution: Federal law prohibits dispensing without prescription", or (ii) "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian", or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by practitioners only;

17. "Manufacturer" means a person engaged in the manufacturing of drugs;

18. "Practice of pharmacy" means:

- a. the interpretation and evaluation of prescription orders,
- b. the compounding, dispensing, and labeling of drugs and devices, except labeling by a manufacturer, packer or distributor of nonprescription drugs and commercially packaged legend drugs and devices,
- c. the participation in drug selection and drug utilization reviews,
- d. the proper and safe storage of drugs and devices and the maintenance of proper records thereof,

- e. the responsibility for advising by counseling and providing information, where professionally necessary or where regulated, of therapeutic values, content, hazards and use of drugs and devices,
- f. the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management and control of a pharmacy, and
- g. the provision of those acts or services that are necessary to provide pharmaceutical care;

19. "Drug outlet" means all pharmacies, wholesalers, manufacturers, or wherever dangerous drugs are stored, and facilities which are engaged in dispensing, delivery or distribution of dangerous drugs;

20. "Manufacturing" means the production, preparation, propagation, compounding, conversion, or processing of a device or a drug, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical or biological synthesis and includes any packaging or repackaging of the substances or labeling or relabeling of its container, and the promotion and marketing of such drugs or devices. The term "manufacturing" also includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, practitioners or other persons;

21. "Assistant pharmacist" means any person presently licensed as an assistant pharmacist in the State of Oklahoma by the Board pursuant to Section 353.10 of this title and for the purposes of this act shall be considered the same as a pharmacist, except where otherwise specified;

22. "Packager" means any person, firm, or corporation, except a pharmacy, who transfers dangerous drugs including but not limited to compressed medical gases from one container to another of any type;

23. "Continuing professional education" means professional, pharmaceutical education in the general areas of the socioeconomic and legal aspects of health care; the properties and actions of drugs and dosage forms; and the etiology, characteristics and therapeutics of the diseased state;

24. "Accredited program" means those seminars, classes, meetings, work projects and other educational courses approved by the Board for purposes of continuing professional education;

25. "Supervising physician" means an individual holding a current license to practice as a physician from the State Board of Medical Licensure and Supervision, ~~pursuant to the provisions of Section 481 et seq. of this title~~ the State Board of Homeopathic Medical Licensure and Supervision, or the State Board of Osteopathic Examiners, ~~pursuant to the provisions of Section 620 et seq. of this title~~, who supervises an advanced practice nurse as defined in Section 567.3a of this title, and who is not in training as an intern, resident, or fellow. To be eligible to supervise an advanced practice nurse, such physician shall remain in compliance with the rules promulgated by the State Board of Medical Licensure and Supervision, the State Board of Homeopathic Medical Licensure and Supervision, or the State Board of Osteopathic Examiners; and

26. "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a drug or device:

- a. as the result of a practitioner's prescription drug order or initiative based on the ~~practitioner/patient/pharmacist~~ practitioner-patient-pharmacist relationship in the course of professional practice, or
- b. for the purpose of, or incident to, research, teaching, or chemical analysis and not for sale or dispensing.

Compounding also includes the preparation of drugs or devices in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

SECTION 25. AMENDATORY 59 O.S. 1991, Section 355, as amended by Section 4, Chapter 250, O.S.L. 1997 (59 O.S. Supp. 2000, Section 355), is amended to read as follows:

Section 355. As used in Section 353.1 et seq. of this title:

1. "Dangerous drugs" means any drug intended for use by humans which, because of its toxicity or other potential for harmful effects, or the method of its use, or the collateral measures necessary for its use, is not safe for use except under the supervision of a practitioner licensed by law to administer such drugs. This shall include all drugs upon which the manufacturer or distributor has, in compliance with federal law and regulations, placed the following: "Caution - Federal Law prohibits dispensing without prescription";

2. "Licensed practitioner" means a medical doctor, dentist, podiatrist, osteopathic physician, veterinarian, homeopathic physician and surgeon, or optometrist licensed to practice and authorized to prescribe medication within the scope of practice of such practitioner; and

3. "Professional samples" means complimentary drugs packaged in accordance with federal and state statutes and regulations and provided to a licensed practitioner free of charge by manufacturers or distributors and distributed free of charge in such package by the licensed practitioner to such practitioner's patients.

SECTION 26. AMENDATORY 63 O.S. 1991, Section 2601, is amended to read as follows:

Section 2601. For the purposes of this act, ~~the following words and phrases mean:~~

~~(a)~~ 1. "Minor" means any person under the age of eighteen (18) years of age, except such person who is on active duty with or has

served in any branch of the Armed Services of the United States shall be considered an adult-;

~~(b)~~ 2. "Health professional" means ~~for the purposes of this act~~ any licensed physician, psychologist, dentist, osteopathic physician, podiatrist, chiropractor, homeopathic physician and surgeon, registered or licensed practical nurse or physician's assistant-; and

~~(c)~~ 3. "Health services" means services delivered by any health professional including examination, preventive and curative treatment, surgical, hospitalization, and psychological services, except abortion or sterilization. Should the health services include counseling concerning abortion, all alternatives will be fully presented to the minor. Services in this act shall not include research or experimentation with minors except where used in an attempt to preserve the life of that minor, or research as approved by an appropriate review board involved in the management of reportable diseases.

SECTION 27. AMENDATORY 63 O.S. 1991, Section 1-707a, as last amended by Section 7, Chapter 93, O.S.L. 1999 (63 O.S. Supp. 2000, Section 1-707a), is amended to read as follows:

Section 1-707a. A. The administrator in charge of each hospital licensed by the State Commissioner of Health shall accept for consideration each application for professional staff privileges submitted by a person licensed to practice:

1. Medicine by the State Board of Medical Licensure and Supervision;
2. Osteopathy by the State Board of Osteopathy;
3. Podiatry by the State Board of Podiatry; ~~or~~
4. As a health service psychologist by the Oklahoma State Board of Examiners of Psychologists; or
5. Homeopathic medicine and surgery by the State Board of Homeopathic Medical Licensure and Supervision.

B. The application shall be acted upon by the governing board of the hospital within a reasonable time. A written report of such action shall be furnished to the applicant thereafter.

C. If a hospital grants staff privileges to a psychologist, at the time of admission of a patient of the psychologist to the hospital, the psychologist or the hospital shall identify a psychiatrist, a medical doctor, ~~or~~ a doctor of osteopathy or a homeopathic physician and surgeon who shall be responsible for the medical evaluation and medical management of the patient.

SECTION 28. AMENDATORY 68 O.S. 1991, Section 1357.6, is amended to read as follows:

Section 1357.6 A. Effective July 1, 1992, there are hereby exempted from the tax levied by this article, ~~Section 1351 et seq. of Title 68 of the Oklahoma Statutes,~~ sales of drugs or medicine for the treatment of human beings, medical appliances, medical devices and other medical equipment including but not limited to prosthetic devices, as defined in paragraph 2 of subsection C B of this section, and durable medical equipment, as defined in paragraph 3 of subsection D B of this section, when administered or distributed by a practitioner, as defined in paragraph 1 of subsection B of this section, who is authorized by law to administer or distribute such items or when purchased or leased by or on behalf of an individual for use by such individual under a prescription or work order of a practitioner who is authorized by law to prescribe such items and when the cost of such items is reimbursable to the practitioner, supplier or the individual under the Medicare or Medicaid Program.

B. ~~The term "practitioner"~~ For purposes of this section:

1. "Practitioner" means a physician, osteopathic physician, surgeon, podiatrist, chiropractor, optometrist, pharmacist, psychologist, ophthalmologist, homeopathic physician and surgeon, nurse practitioner, audiologist or hearing aid dealer or fitter who is licensed by the state as required by law-;

~~C. The term "prosthetic~~ 2. "Prosthetic device" means a device which replaces a missing part or function of the human body and shall include any supplies physically connected to such device~~;~~ and

~~D. The term "durable~~ 3. "Durable medical equipment" means equipment which:

~~1. Can~~ a. can withstand repeated use~~;~~ and

~~2. Is~~ b. is primarily and customarily used to serve a medical purpose~~;~~ and

~~3. Generally~~ c. generally is not useful to a person in the absence of illness or injury~~;~~ and

~~4. Is~~ d. is appropriate for use in the home.

SECTION 29. AMENDATORY 85 O.S. 1991, Section 14, as last amended by Section 2, Chapter 248, O.S.L. 2000 (85 O.S. Supp. 2000, Section 14), is amended to read as follows:

Section 14. A. 1. The employer shall promptly provide for an injured employee such medical, surgical or other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus as may be necessary after the injury. The attending physician shall supply the injured employee and the employer with a full examining report of injuries found at the time of examination and proposed treatment, this report to be supplied within seven (7) days after the examination; also, at the conclusion of the treatment the attending physician shall supply a full report of his treatment to the employer of the injured employee.

2. The attending physician who renders treatment to the employee at any time shall promptly notify the employee and employer or the employer's insurer in writing after the employee has reached maximum medical improvement and is released from active medical care. If the employee is capable of returning to modified light duty work, the attending physician shall promptly notify the employee and the employer or the employer's insurer thereof in writing and shall also specify what restrictions, if any, must be

followed by the employer in order to return the employee to work. In the event the attending physician provides such notification to the employer's insurer, the insurer shall promptly notify the employer.

B. The employer's selected physician shall have the right to examine the injured employee. A report of such examination shall be furnished the injured employee within seven (7) days after such examination.

C. If the employer fails or neglects to provide medical treatment within three (3) days after knowledge of the injury, the injured employee, during the period of such neglect or failure, may do so at the expense of the employer; provided, however, that the injured employee, or another in the employee's behalf, may obtain emergency treatment at the expense of the employer where such emergency treatment is not provided by the employer. Unless a self-insured employer, group self-insurance association plan, or an employer's workers' compensation insurance carrier has previously contracted with a certified workplace medical plan, the employee may select a physician of the employee's choice to render necessary medical treatment, at the expense of the employer. The attending physician so selected by the employee shall notify the employer and the insurance carrier within seven (7) days after examination or treatment was first rendered. If a self-insured employer, group self-insurance association plan, an employer's workers' compensation insurance carrier or an insured, which shall include any member of an approved group self-insured association, policyholder or public entity, regardless of whether such entity is insured by the State Insurance Fund, has previously contracted with a certified workplace medical plan, the employee shall have two choices:

1. a. The employee shall have the right, for each work-related injury, to select any physician from a list of physicians provided by the employer at the time of

making an election not to participate in the certified workplace medical plan. The list shall consist only of physicians who have:

- (1) maintained the employee's medical records prior to an injury and have a documented history of treatment with the employee prior to an injury, or
- (2) maintained the medical records of an immediate family member of the employee prior to an injury and have a documented history of treatment with an immediate family member of the employee prior to an injury. For purposes of this division, immediate family member means the employee's spouse, children, parents, stepchildren, and stepparents.

- b. An attending physician selected under this paragraph must agree to comply with all the rules, terms, and conditions of the certified workplace medical plan. An attending physician selected under this paragraph may refer the employee to a physician outside the certified workplace medical plan only if the physician to whom the employee is referred agrees to comply with all the rules, terms, and conditions of the certified workplace medical plan; or

2. The employee shall elect to participate in the certified workplace medical plan.

D. The term "physician" as used in this section shall mean any person licensed in this state as a medical doctor, chiropractor, podiatrist, dentist, osteopathic physician, homeopathic physician and surgeon, or optometrist. The Court may accept testimony from a psychologist if the testimony is made under the direction of a medical doctor. If an injured employee should die, whether or not

the employee has filed a claim, that fact shall not affect liability for medical attention previously rendered, and any person entitled to such benefits may enforce charges therefor as though the employee had survived.

E. 1. Whoever renders medical, surgical, or other attendance or treatment, nurse and hospital service, medicine, crutches and apparatus, or emergency treatment, may submit such charges and duration of treatment to the Administrator of the Court for review in accordance with the rules of the Administrator.

2. Such charges and duration of treatment shall be limited to the usual, customary and reasonable charges and duration of treatment as prescribed and limited by a schedule of fees and treatment for all medical providers to be adopted, after notice and public hearing, by the Administrator. Said fee and treatment schedule shall be based on the usual, customary and reasonable medical charges of health care providers in the same trade area for comparable treatment of a person with similar injuries and the duration of treatment prevailing in this state for persons with similar injuries. The fee and treatment schedule shall be reviewed biennially by the Administrator and, after such review, and notice and public hearing, the Administrator shall be empowered to amend or alter said fee and treatment schedule to ensure its adequacy. The Administrator shall not increase the overall medical costs in an amount exceeding the cumulative percentage of change of the Consumer Price Index - Urban (CPI-U) for medical costs since the last biennial review.

3. The Administrator shall adopt a new fee and treatment schedule to be effective not later than January 1, 1998, which establishes maximum allowable reimbursement levels for preparation for or testimony at a deposition or court appearance which shall not exceed Two Hundred Dollars (\$200.00) per hour and for work related or medical disability evaluation services.

4. The Administrator's review of medical and treatment charges pursuant to this section shall be conducted pursuant to the fee and treatment schedule in existence at the time the medical care or treatment was provided. The order of the Administrator approving medical and treatment charges pursuant to this section shall be enforceable by the Court in the same manner as provided in the Workers' Compensation Act for the enforcement of other compensation payments. Any party feeling aggrieved by the order, decision or award of the Administrator shall, within ten (10) days, have the right to request a hearing on such medical and treatment charges by a judge of the Workers' Compensation Court. The judge of the Court may affirm the decision of the Administrator, or reverse or modify said decision only if it is found to be contrary to the fee and treatment schedule existing at the time the said medical care or treatment was provided. The order of the judge shall be subject to the same appellate procedure set forth in Section 3.6 of this title for all other orders of the Court. The right to recover charges for every type of medical care for personal injuries arising out of and in the course of covered employment as herein defined, shall lie solely with the Workers' Compensation Court, and all jurisdiction of the other trial courts of this state over such action is hereby abolished. The foregoing provision, relating to approval and enforcement of such charges and duration of treatment, shall not apply where a written contract exists between the employer or insurance carrier and the person who renders such medical, surgical or other attendance or treatment, nurse and hospital service, or furnishes medicine, crutches or apparatus. When a medical care provider has brought a claim in the Workers' Compensation Court to obtain payment for services, a party who prevails in full on the claim shall be entitled to a reasonable attorney's fee.

F. The Court or Administrator shall have authority on application of employee or employer or its insurance carrier to

order a change of physicians at the expense of the employer when, in its judgment, such change is desirable or necessary; provided, the employer shall not be liable to make any of the payments provided for in this section, in case of contest of liability, where the Court shall decide that the injury does not come within the provisions of the Workers' Compensation Act.

G. If the employee chooses a physician for treatment and subsequently changes physicians without the prior approval of the Court or Administrator except when prior approval is waived for good cause shown, or without agreement of the parties, the maximum liability of the employer for the aggregate expenses of all such subsequent physicians shall be Five Hundred Dollars (\$500.00). Provided, the limitations shall not apply to referrals by the treating physician for treatment or diagnostic procedures.

SECTION 30. This act shall become effective November 1, 2001.

48-1-552

WHT

6/12/2015 11:14:56 AM