

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1252

By: Piatt

AS INTRODUCED

An Act relating to the State Board of Medical Licensure and Supervision; amending 59 O.S. 2001, Sections 487 and 493.1, as amended by Section 1, Chapter 213, O.S.L. 2002 (59 O.S. Supp. 2004, Section 493.1), which relate to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act; removing certain employees of the Board from the Merit System of Personnel Administration; expanding approved medical training locations; expanding grounds for denial of a license; amending 59 O.S. 2001, Sections 887.13 and 887.17, as last amended by Section 6, Chapter 543, O.S.L. 2004 (59 O.S. Supp. 2004, Section 887.17), which relate to the Physical Therapy Practice Act; expanding scope of authorized referrals for treatments; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 487, is amended to read as follows:

Section 487. A. The State Board of Medical Licensure and Supervision may appoint the secretary to serve as Medical Advisor to the Board and the Board staff. The Board may hire the secretary as an employee of the Board at such hours of employment and compensation as determined by the Board. The Board may hire a licensed allopathic physician to serve as the secretary-medical advisor to the Board and its staff. This position shall be in the exempt unclassified service, as provided for in subsection B of Section 840-5.5 of Title 74 of the Oklahoma Statutes. The secretary shall not be a member of the Board and shall not vote on Board actions.

B. The secretary of the Board shall preserve a true record of the official proceedings of the meetings of the Board. He or she shall also preserve a record of physicians licensed or applying for such license in this state showing:

1. Age;
2. Ethnic origin;
3. Sex;
4. Place of practice and residence;
5. The time spent in premedical and medical study, together with the names of the schools attended, and the date of graduation therefrom, with the degrees granted;
6. The grades made in examination for license or grades filed in application therefor; and
7. A record of the final disposition of each application for licensure.

The secretary of the Board shall, on or before the first day of March in each year, transmit an official copy of said register for the preceding calendar year, to the Secretary of State for permanent record, a certified copy of which shall be admitted as evidence in all courts of the state.

C. As provided for in subsection D of Section 840-4.1 of Title 74 of the Oklahoma Statutes, the Legislature affirmatively declares that the employees of the State Board of Medical Licensure and Supervision hired after the effective date of this act are not subject to the Merit System of Personnel Administration.

SECTION 2. AMENDATORY 59 O.S. 2001, Section 493.1, as amended by Section 1, Chapter 213, O.S.L. 2004 (59 O.S. Supp. 2004, 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, Australia, or New Zealand 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; and

5. Obtaining an Oklahoma license for the sole purpose of practicing outside of this state.

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 3. AMENDATORY 59 O.S. 2001, Section 887.13, is amended to read as follows:

Section 887.13 The Board may refuse to issue or renew, or may suspend or revoke a license to any person, after notice and hearing in accordance with rules and regulations promulgated pursuant to the Physical Therapy Practice Act and the provisions of the Administrative Procedures Act of the Oklahoma Statutes who has:

1. Practiced physical therapy other than under the referral of a physician, surgeon, dentist, chiropractor or podiatrist duly licensed to practice medicine or surgery or a physician assistant supervised by an MD and in the case of practice as a physical therapist assistant, has practiced other than under the direction of a licensed physical therapist;

2. Treated or attempted to treat ailments or other health conditions of human beings other than by physical therapy as authorized by the Physical Therapy Practice Act;

3. Failed to refer patients to other health care providers if symptoms are known to be present for which physical therapy treatment is inadvisable or if symptoms indicate conditions for which treatment is outside the standards of practice as specified in the rules and regulations promulgated by the Board pursuant to the provisions of the Physical Therapy Practice Act;

4. Used drugs, narcotics, medication, or intoxicating liquors to an extent which affects the professional competency of the applicant or licensee;

5. Been convicted of a felony or of a crime involving moral turpitude;

6. Obtained or attempted to obtain a license as a physical therapist or physical therapist assistant by fraud or deception;

7. Been grossly negligent in the practice of physical therapy or in acting as a physical therapist assistant;

8. Been adjudged mentally incompetent by a court of competent jurisdiction and has not subsequently been lawfully declared sane;

9. Been guilty of conduct unbecoming a person licensed as a physical therapist or physical therapist assistant or guilty of conduct detrimental to the best interests of the public or his profession;

10. Been guilty of any act in conflict with the ethics of the profession of physical therapy; or

11. Had his license suspended or revoked in another state.

SECTION 4. AMENDATORY 59 O.S. 2001, Section 887.17, as last amended by Section 6, Chapter 543, O.S.L. 2004 (59 O.S. Supp. 2004, Section 887.17), is amended to read as follows:

Section 887.17 A. 1. Any person licensed under this act as a physical therapist or physical therapist assistant shall treat human ailments by physical therapy only under the referral of a person licensed as a physician or surgeon with unlimited license, a physician assistant supervised by an MD, and Doctors of Dentistry, Chiropractic and Podiatry, with those referrals being limited to their respective areas of training and practice; provided, however, a physical therapist may provide services within the scope of physical therapy practice without a physician referral to children who receive physical therapy services pursuant to the Individuals with Disabilities Education Act, Amendment of 1997 (P.L. 105-17) and the Rehabilitation Act of 1973, Section 504. Provided further, a plan of care developed by a person authorized to provide services within the scope of the Physical Therapy Practice Act shall be deemed to be a prescription for purposes of providing services pursuant to the provisions of the Individuals with Disabilities Education Act, Amendment of 1997, Public Law 105-17, and Section 504 of the Rehabilitation Act of 1973.

2. Nothing in this act shall prevent a physical therapist from performing screening and educational procedures within the scope of physical therapy practice without a physician referral.

3. Nothing in this act shall be construed as authorization for a physical therapist or physical therapist assistant to practice any branch of the healing art.

4. Any person violating the provisions of this act shall be guilty of a misdemeanor as per Section 887.16 of this title.

B. 1. The provisions of this act are not intended to limit the activities of persons legitimately engaged in the nontherapeutic administration of baths, massage, and normal exercise.

2. This act shall not prohibit students who are enrolled in schools of physical therapy approved by the State Board of Medical Licensure and Supervision from performing such work as is incidental to their course of study; nor shall it prevent any student in any recognized school of the healing art in carrying out prescribed courses of study; provided such school is a recognized institution by the statutes of Oklahoma, and its practitioners are duly licensed as prescribed by law.

3. Nothing in this act shall apply to any person employed by an agency, bureau, or division of the federal government while in the discharge of official duties, however, if such individual engages in the practice of physical therapy outside the line of official duty, the individual must be licensed as herein provided.

SECTION 5. This act shall become effective July 1, 2005.

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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