

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SUBCOMMITTEE RECOMMENDATION
4 FOR

5 HOUSE BILL NO. 2732

6 By: Renegar

7 SUBCOMMITTEE RECOMMENDATION

8 An Act relating to professions and occupations;
9 amending 59 O.S. 2001, Section 491, as amended by
10 Section 3, Chapter 523, O.S.L. 2004 (59 O.S. Supp.
11 2007, Section 491), which relates to the practice of
12 medicine or surgery; increasing penalty for
13 practicing without a license; amending 59 O.S. 2001,
14 Section 495b, which relates to practice without
15 renewal license; increasing amount of fine; amending
16 59 O.S. 2001, Section 638, as amended by Section 12,
17 Chapter 523, O.S.L. 2004 (59 O.S. Supp. 2007, Section
18 638), which relates to the Oklahoma Osteopathic
19 Medicine Act; increasing penalties for violation;
20 amending 59 O.S. 2001, Section 698.26, as amended by
21 Section 7, Chapter 172, O.S.L. 2002 (59 O.S. Supp.
22 2007, Section 698.26), which relates to the
23 unauthorized practice of veterinary medicine;
24 providing for certain penalty; amending 59 O.S. 2001,
Section 731.4, which relates to the healing arts;
increasing penalty for violations; and providing an
effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 491, as
amended by Section 3, Chapter 523, O.S.L. 2004 (59 O.S. Supp. 2007,
Section 491), is amended to read as follows:

1 Section 491. A. 1. Every person before practicing medicine
2 and surgery or any of the branches or departments of medicine and
3 surgery, within the meaning of the Oklahoma Allopathic Medical and
4 Surgical Licensure and Supervision Act, within this state, must be
5 in legal possession of the unrevoked license or certificate issued
6 pursuant to the Oklahoma Allopathic Medical and Surgical Licensure
7 and Supervision Act.

8 2. Any person practicing ~~in such manner~~ within this state, who
9 is not in the legal possession of ~~such~~ a license or certificate,
10 shall, upon conviction ~~thereof~~, be guilty of a felony, and shall, in
11 any court having jurisdiction, be fined for:

12 a. the first offense in any sum not less than ~~one~~
13 ~~Thousand Dollars (\$1,000.00)~~ Five Thousand Dollars
14 (\$5,000.00), and not more than ~~Five Thousand Dollars~~
15 ~~(\$5,000.00)~~ Ten Thousand Dollars (\$10,000.00), and

16 b. any succeeding offense, as provided in subparagraph a
17 of this paragraph, and in addition thereto, be
18 imprisoned in a county jail for a period of time of
19 not less than ~~thirty (30)~~ one hundred eighty (180)
20 ~~days, nor more than one hundred eighty (180) days~~ two
21 (2) years.

22 3. In all instances, each day's practice shall constitute a
23 separate and distinct offense.

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1 4. Any person who practices medicine and surgery or any of the
2 branches or departments thereof without first complying with the
3 provisions of the Oklahoma Allopathic Medical and Surgical Licensure
4 and Supervision Act shall, in addition to the other penalties
5 provided therein, receive no compensation for such medical and
6 surgical or branches or departments thereof services.

7 B. 1. If a license has been revoked or suspended pursuant to
8 the Oklahoma Allopathic Medical and Surgical Licensure and
9 Supervision Act whether for disciplinary reasons or for failure to
10 renew ~~such~~ the license, the State Board of Medical Licensure and
11 Supervision may, subject to rules promulgated by the Board, assess
12 and collect an administrative fine not to exceed ~~Five Thousand~~
13 ~~Dollars (\$5,000.00)~~ Ten Thousand Dollars (\$10,000.00) for each day
14 after revocation or suspension whether for disciplinary reasons or
15 for failure to renew such license that the person practices medicine
16 and surgery or any of the branches or departments thereof within
17 this state.

18 2. Fines assessed shall be in addition to any penalty provided
19 pursuant to subsection A of this section.

20 SECTION 2. AMENDATORY 59 O.S. 2001, Section 495b, is
21 amended to read as follows:

22 Section 495b. Any person practicing medicine and surgery in
23 Oklahoma as defined by law without having the legal possession of a
24 current renewal license shall be guilty of a misdemeanor and upon

1 conviction be punished by a fine of not less than ~~One Thousand~~
2 ~~Dollars (\$1,000.00)~~ Five Thousand Dollars (\$5,000.00), and such
3 practice shall constitute grounds for the revocation or suspension
4 of his or her license to practice medicine and surgery in this
5 state.

6 SECTION 3. AMENDATORY 59 O.S. 2001, Section 638, as
7 amended by Section 12, Chapter 523, O.S.L. 2004 (59 O.S. Supp. 2007,
8 Section 638), is amended to read as follows:

9 Section 638. A. Each of the following acts shall constitute a
10 felony, punishable, upon conviction, by a fine of not less than ~~One~~
11 ~~Thousand Dollars (\$1,000.00)~~ Five Thousand Dollars (\$5,000.00) nor
12 more than ~~Five Thousand Dollars (\$5,000.00)~~ Ten Thousand Dollars
13 (\$10,000.00) or by imprisonment in the county jail for not less than
14 ~~ninety (90)~~ one hundred eighty (180) days nor more than ~~one (1) year~~
15 two (2) years, or by both ~~such~~ fine and imprisonment:

16 1. The practice of osteopathic medicine or attempt to practice
17 osteopathic medicine without a license issued by the State Board of
18 Osteopathic Examiners, and each visit, treatment, prescription, or
19 attempted visit, treatment, or prescription shall constitute a
20 separate and distinct offense;

21 2. Obtaining of, or attempting to obtain, a license under the
22 provisions of this act, or obtaining, or attempting to obtain, money
23 or any other thing of value, by fraudulent representation or false
24 pretense;

1 3. Advertising as an osteopathic physician and surgeon, or
2 practicing or attempting to practice osteopathic medicine under a
3 false, assumed, or fictitious name, or a name other than the real
4 name; or

5 4. Allowing any person in the licensee's employment or control
6 to practice as an osteopathic physician and surgeon when not
7 actually licensed to do so.

8 B. Any person making any willfully false oath or affirmation
9 whenever oath or affirmation is required by the Oklahoma Osteopathic
10 Medicine Act shall be deemed guilty of the felony of perjury, and
11 upon conviction, shall be punished as prescribed by the general laws
12 of this state.

13 SECTION 4. AMENDATORY 59 O.S. 2001, Section 698.26, as
14 amended by Section 7, Chapter 172, O.S.L. 2002 (59 O.S. Supp. 2007,
15 Section 698.26), is amended to read as follows:

16 Section 698.26 A. A registered veterinary technician,
17 veterinary technologist, nurse, veterinary assistant or other
18 employee shall not diagnose animal diseases, prescribe medical or
19 surgical treatment, or perform as a surgeon.

20 B. A registered veterinary technician may perform emergency
21 treatments in a life saving situation in accordance with rules
22 promulgated by the Board.

23 C. Any person certified as a veterinary technician, who
24 practices veterinary medicine contrary to the provisions of the

1 Oklahoma Veterinary Practice Act, violates, aids, or abets such
2 actions, upon conviction thereof, shall be guilty of a misdemeanor
3 and shall also be subject to revocation, suspension, probation or
4 nonrenewal of certification by the Board. Any person who assumes
5 the title of registered veterinary technician, or the abbreviation
6 RVT, or any other words, letters, signs, or figures that might
7 induce a person to believe that the person using the name is a
8 registered veterinary technician, when in fact they are not
9 certified, upon conviction thereof shall be guilty of a misdemeanor.

10 D. The penalties provided in subsection C of this section shall
11 not apply to a student enrolled in an accredited school of
12 veterinary technology while the student is under the supervision of
13 an instructor and is performing activities required as a part of the
14 student's training.

15 E. Any licensed veterinarian permitting or directing a
16 veterinary technician, aide or animal attendant to perform a task or
17 procedure in violation of the provisions of the Oklahoma Veterinary
18 Practice Act, upon conviction thereof, shall be guilty of a
19 misdemeanor and shall also be subject to revocation, probation,
20 nonrenewal or suspension of license by the Board.

21 F. Any person having never been certified or licensed in this
22 state as a veterinarian or veterinary technician who practices
23 veterinary medicine contrary to the provisions of the Oklahoma
24 Veterinary Practice Act shall, upon conviction, be guilty of a

1 felony punishable by imprisonment in the custody of the Department
2 of Corrections for not more than two (2) years, or by a fine of not
3 more than Five Thousand Dollars (\$5,000.00), or by both fine and
4 imprisonment.

5 SECTION 5. AMENDATORY 59 O.S. 2001, Section 731.4, is
6 amended to read as follows:

7 Section 731.4 Any person who shall violate the provisions of
8 this act shall be guilty of a misdemeanor and upon conviction
9 thereof shall be punished by a fine of not less than ~~Fifty Dollars~~
10 ~~(\$50.00)~~ Five Hundred Dollars (\$500.00), nor more than ~~Five Hundred~~
11 ~~Dollars (\$500.00)~~ Two Thousand Dollars (\$2,000.00), or by
12 imprisonment in the county jail for not less than five (5) days, nor
13 more than thirty (30) days, or by both ~~such~~ fine and imprisonment.
14 Each day upon which this act shall be violated shall constitute a
15 separate offense and be punishable as such.

16 SECTION 6. This act shall become effective November 1, 2008.

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