

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 1133 By: Jolley of the Senate  
3 and  
4 Denney of the House  
5  
6  
7

8 ( professions and occupations - Oklahoma  
9 Interventional Pain Management and Treatment Act -  
10 codification -  
11 emergency )  
12  
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14 AUTHORS: Remove Denney as principal House author and substitute  
15 Trebilcock as principal House author and add Derby, Ritze  
and Sullivan as coauthors

16 AMENDMENT NO. 1. Strike the title, enacting clause and entire bill  
and insert

17  
18 "An Act relating to professions and occupations;  
19 creating the Oklahoma Interventional Pain Management  
20 and Treatment Act; providing short title; defining  
21 terms; prohibiting the practice of interventional  
22 pain management by certain persons; amending 59 O.S.  
23 2001, Section 491, as last amended by Section 2,  
24 Chapter 358, O.S.L. 2008 (59 O.S. Supp. 2009,  
Section 491), which relates to allopathic medicine;  
providing for certain regulations on pain management  
and treatment; authorizing the State Board of  
Medical Licensure and Supervision to impose certain  
administrative penalties; authorizing the Board to  
initiate certain proceedings; permitting the Board  
to apply for certain relief; exempting certain

1 persons from personal liability; amending 59 O.S.  
2 2001, Section 622, as amended by Section 5, Chapter  
3 148, O.S.L. 2009 (59 O.S. Supp. 2009, Section 622),  
4 which relates to licensing requirements for  
5 osteopaths; requiring certain license; and providing  
6 for codification.

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

8 SECTION 1. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 650 of Title 59, unless there is  
10 created a duplication in numbering, reads as follows:

11 A. This act shall be known and may be cited as the "Oklahoma  
12 Interventional Pain Management and Treatment Act".

13 B. As used in this section:

14 1. "Chronic pain" means a pain state which is subacute,  
15 persistent and intractable;

16 2. "Fluoroscope" means a radiologic instrument equipped with a  
17 fluorescent screen on which opaque internal structures can be viewed  
18 as moving shadow images formed by the differential transmission of  
19 X-rays throughout the body; and

20 3. "Interventional pain management" means the practice of  
21 medicine devoted to the diagnosis and treatment of chronic pain,  
22 through the use of such techniques as:

23 a. ablation of targeted nerves,

24 b. percutaneous precision needle placement with placement  
of drugs in targeted areas, such as local anesthetics,

1           steroids, analgesics, peripheral nerve blocks,  
2           epidural injections and spinal joint injections, and  
3           c.   surgical techniques, such as laser or endoscopic  
4           diskectomy, intrathecal infusion pumps and spinal cord  
5           stimulators.

6           C.   It shall be unlawful to practice or offer to practice  
7   interventional pain management in this state unless such person has  
8   been duly licensed under the provisions of the Oklahoma Allopathic  
9   Medical and Surgical Licensure and Supervision Act or the Oklahoma  
10   Osteopathic Medicine Act.

11           D.   1.   Nothing in this section shall prevent a certified  
12   registered nurse anesthetist from administering a lumbar intra-  
13   laminar epidural steroid injection when requested to do so by a  
14   physician and under the timely on-site supervision of an allopathic  
15   or osteopathic physician.

16           2.   A certified registered nurse anesthetist shall not operate a  
17   freestanding pain management facility without direct supervision of  
18   a physician who is board-certified in interventional pain management  
19   or its equivalent.

20           SECTION 2.        AMENDATORY        59 O.S. 2001, Section 491, as last  
21   amended by Section 2, Chapter 358, O.S.L. 2008 (59 O.S. Supp. 2009,  
22   Section 491), is amended to read as follows:

23           Section 491.   A.   1.   Every person before practicing medicine  
24   and surgery or any of the branches or departments of medicine and

1 surgery, within the meaning of the Oklahoma Allopathic Medical and  
2 Surgical Licensure and Supervision Act, the Oklahoma Osteopathic  
3 Medicine Act, or the Oklahoma Interventional Pain Management and  
4 Treatment Act, within this state, must be in legal possession of the  
5 unrevoked license or certificate issued pursuant to the Oklahoma  
6 Allopathic Medical and Surgical Licensure and Supervision Act.

7 2. Any person practicing in such manner within this state, who  
8 is not in the legal possession of a license or certificate, shall,  
9 upon conviction, be guilty of a felony, punishable by a fine in an  
10 amount not less than One Thousand Dollars (\$1,000.00) nor more than  
11 Ten Thousand Dollars (\$10,000.00), or by imprisonment in the county  
12 jail for a term of not more than one (1) year or imprisonment in the  
13 custody of the Department of Corrections for a term of not more than  
14 four (4) years, or by both such fine and imprisonment.

15 3. Each day a person is in violation of any provision of this  
16 subsection shall constitute a separate criminal offense and, in  
17 addition, the district attorney may file a separate charge of  
18 medical battery for each person who is injured as a result of  
19 treatment or surgery performed in violation of this subsection.

20 4. Any person who practices medicine and surgery or any of the  
21 branches or departments thereof without first complying with the  
22 provisions of the Oklahoma Allopathic Medical and Surgical Licensure  
23 and Supervision Act, the Oklahoma Osteopathic Medicine Act, or the  
24 Oklahoma Interventional Pain Management and Treatment Act shall, in

1 addition to the other penalties provided therein, receive no  
2 compensation for such medical and surgical or branches or  
3 departments thereof services.

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

15 2. The Board may impose administrative penalties against any  
16 person who violates any of the provisions of the Oklahoma  
17 Interventional Pain Management and Treatment Act or any rule  
18 promulgated pursuant thereto. The Board is authorized to initiate  
19 disciplinary and injunctive proceedings against any person who has  
20 violated any of the provisions of the Oklahoma Interventional Pain  
21 Management and Treatment Act or any rule of the Board promulgated  
22 pursuant thereto. The Board is authorized in the name of the state  
23 to apply for relief by injunction in the established manner provided  
24 in cases of civil procedure, without bond, to enforce the provisions

1 of the Oklahoma Interventional Pain Management and Treatment Act, or  
2 to restrain any violation thereof. The members of the Board shall  
3 not be personally liable for proceeding under this section.

4 3. Fines assessed shall be in addition to any criminal penalty  
5 provided pursuant to subsection A of this section.

6 SECTION 3. AMENDATORY 59 O.S. 2001, Section 622, as  
7 amended by Section 5, Chapter 148, O.S.L. 2009 (59 O.S. Supp. 2009,  
8 Section 622), is amended to read as follows:

9 Section 622. A. 1. Except as otherwise provided by this  
10 section, it shall be unlawful for any person to practice as an  
11 osteopathic physician and surgeon in this state, without a license  
12 to do so, issued by the State Board of Osteopathic Examiners;  
13 provided, that any license or certificate heretofore issued under  
14 the laws of this state, authorizing its holder to practice  
15 osteopathic medicine, shall remain in full force and effect.

16 2. Osteopathic physicians engaged in postgraduate training  
17 beyond the internship year, also known as PGY-1, shall be licensed.

18 3. Osteopathic physicians engaged in interventional pain  
19 management pursuant to the Oklahoma Interventional Pain Management  
20 and Treatment Act shall be licensed by the State Board of  
21 Osteopathic Examiners.

22 B. 1. A person within or outside of this state who performs  
23 through electronic communications diagnostic or treatment services  
24 within the scope of practice of an osteopathic physician and

1 surgeon, including but not limited to, stroke prevention and  
2 treatment, for any patient whose condition is being diagnosed or  
3 treated within this state shall be licensed in this state, pursuant  
4 to the provisions of the Oklahoma Osteopathic Medicine Act.

5 However, in such cases, a nonresident osteopathic physician who,  
6 while located outside this state, consults on an irregular basis  
7 with a physician who is located in this state is not required to be  
8 licensed in this state.

9       2. Any osteopathic physician licensed in this state who engages  
10 in the prescription of drugs, devices, or treatments via electronic  
11 means may do so only in the context of an appropriate  
12 physician/patient relationship wherein a proper patient record is  
13 maintained including, at the minimum, a current history and  
14 physical.

15       3. Any commissioned medical officer of the armed forces of the  
16 United States or medical officer of the United States Public Health  
17 Service or the Veterans Administration of the United States, in the  
18 discharge of official duties and/or within federally controlled  
19 facilities, who is fully licensed to practice osteopathic medicine  
20 and surgery in one or more jurisdictions of the United States shall  
21 not be required to be licensed in this state pursuant to the  
22 Oklahoma Osteopathic Medicine Act, unless the person already holds  
23 an osteopathic medical license in this state pursuant to the  
24

1 Oklahoma Osteopathic Medicine Act. In such case, the medical  
2 officer shall be subject to the Oklahoma Osteopathic Medicine Act.

3 4. A person who performs any of the functions covered by this  
4 subsection submits themselves to the jurisdiction of the courts of  
5 this state for the purposes of any cause of action resulting from  
6 the functions performed.

7 C. A hospital or related institution, as such terms are defined  
8 in Section 1-701 of Title 63 of the Oklahoma Statutes, which has the  
9 principal purpose or function of providing hospital or medical care,  
10 including but not limited to any corporation, association, trust, or  
11 other organization organized and operated for such purpose, may  
12 employ one or more persons who are duly licensed to practice  
13 osteopathic medicine in this state without being regarded as itself  
14 practicing osteopathic medicine within the meaning and provisions of  
15 this section. The employment by the hospital or related institution  
16 of any person who is duly licensed shall not, in and of itself, be  
17 considered as an act of unprofessional conduct by the person so  
18 employed. Nothing provided herein shall eliminate, limit or  
19 restrict the liability for any act or failure to act of any  
20 hospital, any hospital's employees or persons duly licensed to  
21 practice osteopathic medicine."

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Passed the House of Representatives the 25th day of February, 2009.

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Presiding Officer of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2009.

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Presiding Officer of the Senate