

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1897
Page _____ Section _____ Lines _____
Of the printed Bill
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Doug Cox

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1897

By: Cox

7 PROPOSED COMMITTEE SUBSTITUTE

8
9 An Act relating to professions and occupations;
10 creating the Allied Professional Peer Assistance
11 Program; stating purpose; providing for powers and
12 duties of the Board; providing for fees; providing
13 for placement of funds; providing for records and
14 management; providing for immunity; providing for
15 suspension of license; requiring certain information
16 to be confidential; defining terms; amending 59 O.S.
17 2001, Sections 493.2, as last amended by Section 4,
18 Chapter 523, O.S.L. 2004, 506, 509, as amended by
19 Section 9, Chapter 523, O.S.L. 2004 and 3006 (59 O.S.
20 Supp. 2008, Sections 493.2 and 509), which relate to
21 the Oklahoma Allopathic Medical and Surgical
22 Licensure and Supervision Act and the Orthotics and
23 Prosthetics Practice Act; modifying the requirements
24 of licensure for certain persons; modifying authority
for suspension of license; modifying definition of
unprofessional conduct; authorizing Board to issue
temporary license; providing for codification;
providing an effective date; and declaring an
emergency.

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 Section 518.1 of Title 59, unless there
is created a duplication in numbering, reads as follows:

1 A. There is hereby established the Allied Professional Peer
2 Assistance Program to rehabilitate allied medical professionals
3 whose competency may be compromised because of the abuse of drugs or
4 alcohol, so that such allied medical professionals can be treated
5 and can return to or continue the practice of allied medical
6 practice in a manner which will benefit the public. The program
7 shall be under the supervision and control of the Oklahoma Board of
8 Medical Licensure and Supervision.

9 B. The Board shall appoint one or more peer assistance
10 evaluation advisory committees, hereinafter called the "allied peer
11 assistance committees". Each of these committees shall be composed
12 of members, the majority of which shall be licensed allied medical
13 professionals with expertise in chemical dependency. The allied
14 peer assistance committees shall function under the authority of the
15 Oklahoma Board of Medical Licensure and Supervision in accordance
16 with the rules of the Board. The program may be one hundred percent
17 (100%) outsourced to professional groups specialized in this arena.
18 The committee members shall serve without pay, but may be reimbursed
19 for the expenses incurred in the discharge of their official duties
20 in accordance with the State Travel Reimbursement Act.

21 C. The Board shall appoint and employ a qualified person or
22 persons to serve as program coordinators and shall fix such person's
23 compensation. The Board shall define the duties of the program
24 coordinators who shall report directly to the Board.

1 D. The Board is authorized to adopt and revise rules, not
2 inconsistent with the Oklahoma Allopathic Medical and Surgical
3 Licensure and Supervision Act, as may be necessary to enable it to
4 carry into effect the provisions of this section.

5 E. A portion of licensing fees for each allied profession, not
6 to exceed Ten Dollars (\$10.00), may be used to implement and
7 maintain the Allied Professional Peer Assistance Program.

8 F. All monies paid pursuant to subsection E of this section
9 shall be deposited in an agency special account revolving fund under
10 the Oklahoma Board of Medical Licensure and Supervision, and shall
11 be used for the general operating expenses of the Allied
12 Professional Peer Assistance Program, including payment of personal
13 services.

14 G. Records and management information system of the
15 professionals enrolled in the Allied Professional Peer Assistance
16 Program and reports shall be maintained in the program office in a
17 place separate and apart from the records of the Board. The records
18 shall be made public only by subpoena and court order; provided
19 however, confidential treatment shall be cancelled upon default by
20 the professional in complying with the requirements of the program.

21 H. Any person making a report to the Board or to an allied peer
22 assistance committee regarding a professional suspected of
23 practicing allied medical practice while habitually intemperate or
24 addicted to the use of habit-forming drugs, or a professional's

1 progress or lack of progress in rehabilitation, shall be immune from
2 any civil or criminal action resulting from such reports, provided
3 such reports are made in good faith.

4 I. A professional's participation in the Allied Professional
5 Peer Assistance Program in no way precludes additional proceedings
6 by the Board for acts or omissions of acts not specifically related
7 to the circumstances resulting in the professional's entry into the
8 program. However, in the event the professional defaults from the
9 program, the Board may discipline the professional for those acts
10 which led to the professional entering the program.

11 J. The Executive Director of the Board shall suspend the
12 license immediately upon notification that the licensee has
13 defaulted from the Allied Professional Peer Assistance Program, and
14 shall assign a hearing date for the matter to be presented to the
15 Board.

16 K. All treatment information, whether or not recorded, and all
17 communications between a professional and therapist are both
18 privileged and confidential. In addition, the identity of all
19 persons who have received or are receiving treatment services shall
20 be considered confidential and privileged.

21 L. As used in this section, unless the context otherwise
22 requires:

23 1. "Board" means the Oklahoma Board of Medical Licensure and
24 Supervision; and

1 2. "Allied peer assistance committee" means the peer assistance
2 evaluation advisory committee created in this section, which is
3 appointed by the Oklahoma Board of Medical Licensure and Supervision
4 to carry out specified duties.

5 SECTION 2. AMENDATORY 59 O.S. 2001, Section 493.2, as
6 last amended by Section 4, Chapter 523, O.S.L. 2004 (59 O.S. Supp.
7 2008, Section 493.2), is amended to read as follows:

8 Section 493.2 A. Foreign applicants shall meet all
9 requirements for licensure as provided in Sections 492.1 and 493.1
10 of this title.

11 B. 1. A foreign applicant shall possess the degree of Doctor
12 of Medicine or a Board-approved equivalent based on satisfactory
13 completion of educational programs from a recognized foreign medical
14 ~~school with education and training substantially equivalent to that~~
15 ~~offered by the University of Oklahoma College of Medicine through~~
16 national and international resources available to the Board.

17 2. In the event the foreign medical school utilized clerkships
18 in the United States, its territories or possessions, such
19 clerkships shall have been performed in hospitals and schools that
20 have programs accredited by the Accreditation Council for Graduate
21 Medical Education (ACGME).

22 C. A foreign applicant shall have a command of the English
23 language that is satisfactory to the State Board of Medical
24

1 Licensure and Supervision, demonstrated by the passage of an oral
2 English competency examination.

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

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

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

15 G. Foreign applicants shall provide a certified copy of the
16 Educational Commission for Foreign Medical Graduates (ECFMG)
17 Certificate to the Board at such time and in such manner as required
18 by the Board. The Board may waive the requirement for an
19 Educational Commission for Foreign Medical Graduates Certificate by
20 rule for good cause shown.

21 SECTION 3. AMENDATORY 59 O.S. 2001, Section 506, is
22 amended to read as follows:

23 Section 506. A. If it is the decision of the State Board of
24 Medical Licensure and Supervision, after considering all the

1 testimony presented, that the defendant is guilty as charged, the
2 Board shall revoke the license of the defendant, and the defendant's
3 rights to practice medicine and surgery. The Board, however, may
4 suspend a license, during which suspension the holder of such
5 suspended license shall not be entitled to practice medicine and
6 surgery thereunder. If during suspension, the defendant practiced
7 medicine or surgery or has been guilty of any act of unprofessional
8 conduct, as defined by the Oklahoma Allopathic Medical and Surgical
9 Licensure and Supervision Act, the Board may revoke the license of
10 such licensee or place the licensee upon probation for any period of
11 time not less than one (1) year, nor more than five (5) years, or on
12 second offense place the licensee on probation for an indefinite
13 period of time, during which time the licensee's conduct will be
14 kept under observation. The Board, furthermore, may impose on the
15 defendant, as a condition of any suspension or probation, a
16 requirement that the defendant attend and produce evidence of
17 successful completion of a specific term of education, residency, or
18 training in enumerated fields and/or institutions as ordered by the
19 Board based on the facts of the case. The education, residency, or
20 training shall be at the expense of the defendant. The Board may
21 also impose other disciplinary actions as provided for in Section
22 509.1 of this title. At the end of any term of suspension imposed
23 by the Board, the applicant for reinstatement shall show to the

24

1 Board successful completion of all conditions and requirements
2 imposed by the Board and demonstrate eligibility for reinstatement.

3 B. Immediately upon learning that a licensee has been convicted
4 of a felonious violation of a state or federal narcotics law, the
5 Executive Director of the Board shall summarily suspend the license
6 and assign a hearing date for the matter to be presented to the
7 Board. Immediately upon learning that a licensee is in violation of
8 a Board-ordered probation, the Executive Director of the Board may
9 summarily suspend the license based on eminent harm to the public
10 and assign a hearing date for the matter to be presented at the next
11 scheduled Board meeting.

12 SECTION 4. AMENDATORY 59 O.S. 2001, Section 509, as
13 amended by Section 9, Chapter 523, O.S.L. 2004 (59 O.S. Supp. 2008,
14 Section 509), is amended to read as follows:

15 Section 509. The words "unprofessional conduct" as used in
16 Sections 481 through 514 of this title are hereby declared to
17 include, but shall not be limited to, the following:

- 18 1. Procuring, aiding or abetting a criminal operation;
- 19 2. The obtaining of any fee or offering to accept any fee,
20 present or other form of remuneration whatsoever, on the assurance
21 or promise that a manifestly incurable disease can or will be cured;
- 22 3. Willfully betraying a professional secret to the detriment
23 of the patient;

24

1 4. Habitual intemperance or the habitual use of habit-forming
2 drugs;

3 5. Conviction of a felony or of any offense involving moral
4 turpitude;

5 6. All advertising of medical business in which statements are
6 made which are grossly untrue or improbable and calculated to
7 mislead the public;

8 7. Conviction or confession of a crime involving violation of:

9 a. the antinarcotic or prohibition laws and regulations
10 of the federal government,

11 b. the laws of this state, or

12 c. State Board of Health rules;

13 8. Dishonorable or immoral conduct which is likely to deceive,
14 defraud, or harm the public;

15 9. The commission of any act which is a violation of the
16 criminal laws of any state when such act is connected with the
17 physician's practice of medicine. A complaint, indictment or
18 confession of a criminal violation shall not be necessary for the
19 enforcement of this provision. Proof of the commission of the act
20 while in the practice of medicine or under the guise of the practice
21 of medicine shall be unprofessional conduct;

22 10. Failure to keep complete and accurate records of purchase
23 and disposal of controlled drugs or of narcotic drugs;

24

1 11. The writing of false or fictitious prescriptions for any
2 drugs or narcotics declared by the laws of this state to be
3 controlled or narcotic drugs;

4 12. Prescribing or administering a drug or treatment without
5 sufficient examination and the establishment of a valid physician-
6 patient relationship;

7 13. The violation, or attempted violation, direct or indirect,
8 of any of the provisions of the Oklahoma Allopathic Medical and
9 Surgical Licensure and Supervision Act, either as a principal,
10 accessory or accomplice;

11 14. Aiding or abetting, directly or indirectly, the practice of
12 medicine by any person not duly authorized under the laws of this
13 state;

14 15. The inability to practice medicine with reasonable skill
15 and safety to patients by reason of age, illness, drunkenness,
16 excessive use of drugs, narcotics, chemicals, or any other type of
17 material or as a result of any mental or physical condition. In
18 enforcing this subsection the State Board of Medical Licensure and
19 Supervision may, upon probable cause, request a physician to submit
20 to a mental or physical examination by physicians designated by it.
21 If the physician refuses to submit to the examination, the Board
22 shall issue an order requiring the physician to show cause why the
23 physician will not submit to the examination and shall schedule a
24 hearing on the order within thirty (30) days after notice is served

1 on the physician. The physician shall be notified by either
2 personal service or by certified mail with return receipt requested.
3 At the hearing, the physician and the physician's attorney are
4 entitled to present any testimony and other evidence to show why the
5 physician should not be required to submit to the examination.
6 After a complete hearing, the Board shall issue an order either
7 requiring the physician to submit to the examination or withdrawing
8 the request for examination. The medical license of a physician
9 ordered to submit for examination may be suspended until the results
10 of the examination are received and reviewed by the Board;

11 16. Prescribing, dispensing or administering of controlled
12 substances or narcotic drugs in excess of the amount considered good
13 medical practice, or prescribing, dispensing or administering
14 controlled substances or narcotic drugs without medical need in
15 accordance with published standards;

16 17. Engaging in physical conduct with a patient which is sexual
17 in nature, or in any verbal behavior which is seductive or sexually
18 demeaning to a patient;

19 18. Failure to maintain an office record for each patient which
20 accurately reflects the evaluation, treatment, and medical necessity
21 of treatment of the patient; ~~or~~

22 19. Failure to provide necessary ongoing medical treatment when
23 a doctor-patient relationship has been established, which
24

1 relationship can be severed by either party providing a reasonable
2 period of time is granted; or

3 20. Failure to provide a proper and safe medical facility
4 setting and qualified assistive personnel for a recognized medical
5 act, including but not limited to an initial in-person patient
6 examination, office surgery, diagnostic service or any other medical
7 procedure or treatment. Adequate medical records to support
8 diagnosis, procedure, treatment or prescribed medications must be
9 produced and maintained.

10 SECTION 5. AMENDATORY 59 O.S. 2001, Section 3006, is
11 amended to read as follows:

12 Section 3006. A. The State Board of Medical Licensure and
13 Supervision, with the assistance of the Advisory Committee on
14 Orthotics and Prosthetics, shall establish qualifications for
15 licensure and registration under the Orthotics and Prosthetics
16 Practice Act. Until November 1, 2004, the Board shall provide, as
17 set forth herein, an alternative qualification licensure opportunity
18 for current practitioners in this state who are unable to meet
19 standard qualifications. Persons meeting the qualifications of more
20 than one discipline may be licensed in more than one discipline.

21 B. To be licensed to practice orthotics or prosthetics
22 according to standard qualifications, a person shall:

23

24

1 1. Possess a baccalaureate degree from an institution of higher
2 education accredited by a general accrediting agency recognized by
3 the Oklahoma State Regents for Higher Education;

4 2. Have completed an orthotic or prosthetic education program
5 that meets or exceeds the requirements, including clinical practice,
6 of the Commission on Accreditation of Allied Health Education
7 Programs;

8 3. Have completed a clinical residency in the professional area
9 for which the license is sought that meets or exceeds the standards,
10 guidelines, and procedures for residencies of the National
11 Commission on Orthotic and Prosthetic Education or of any other such
12 group that is recognized by the State Board of Medical Licensure and
13 Supervision; and

14 4. Demonstrate attainment of internationally accepted standards
15 of orthotic and prosthetic care as outlined by the International
16 Society of Prosthetics and Orthotics professional profile for
17 Category I orthotic and prosthetic personnel.

18 C. To be licensed to practice orthotics or prosthetics under
19 alternative qualification requirements, a person shall:

20 1. Pass an examination in the area of licensure, which may be
21 an available examination designated by the State Board of Medical
22 Licensure and Supervision or an examination developed by the Board;
23 and

24

1 2. Execute an alternative qualification contract with the State
2 Board of Medical Licensure and Supervision the conditions of which
3 shall be based on the Board's evaluation of the applicant's
4 experience and the Board's determination of further experience
5 needed or other requirements to be met, which contract shall specify
6 a period of time not to exceed ten (10) years for completion of the
7 further experience or requirements.

8 D. Upon execution of the alternative qualification contract,
9 the Board shall issue a license and shall renew the license subject
10 to the licensee's making satisfactory progress as required by the
11 contract. Persons who satisfactorily complete the alternative
12 qualification contract shall be thereafter considered as having met
13 the qualifications necessary for license renewal.

14 E. No person shall be permitted to enter into an alternative
15 qualification contract after October 31, 2004. A person who has not
16 done so by October 31, 2004, shall not be issued a license to
17 practice orthotics or prosthetics without meeting standard
18 qualifications.

19 F. Notwithstanding any other provision of this section, a
20 person who has practiced full time during the three-year period
21 preceding the effective date of this act in a prosthetic or orthotic
22 facility as a prosthetist or orthotist and has a high school diploma
23 or equivalent, or who has practiced as an assistant or technician,
24 may file an application with the Board within ninety (90) days from

1 the effective date of this act for permission to continue to
2 practice at his or her identified level of practice. The Board,
3 after verifying the applicant's work history and receiving payment
4 of the application fee as established pursuant to this act, shall,
5 without examination of the applicant, issue the applicant a license
6 or certificate of registration. To make the investigations
7 necessary to verify the applicant's work history, the Board may
8 require that the applicant complete a questionnaire regarding the
9 work history and scope of practice. The Board shall take no more
10 than six (6) months to verify the work history. Applicants applying
11 after the ninety-day application period of this subsection has
12 expired shall meet the qualifications elsewhere set forth for
13 standard or alternative qualification for licensure or for
14 registration as determined by the Board.

15 G. The Board may authorize the Board Secretary to issue a
16 temporary license for up to two (2) years to individuals who have
17 graduated from a program and completed their residency as outlined
18 in subsection B of this section, but not yet passed the licensure
19 exam. A temporary license authorizing practice under supervision
20 shall be granted only when the Board Secretary is satisfied as to
21 the qualifications of the applicant to be licensed under the
22 Orthotics and Prosthetics Practice Act except for examination. A
23 temporary license shall be granted only to an applicant demonstrably
24 qualified for a full and unrestricted license under the requirements

1 set by the Orthotics and Prosthetics Practice Act and the rules of
2 the Board.

3 SECTION 6. This act shall become effective July 1, 2009.

4 SECTION 7. It being immediately necessary for the preservation
5 of the public peace, health and safety, an emergency is hereby
6 declared to exist, by reason whereof this act shall take effect and
7 be in full force from and after its passage and approval.

8

9 52-1-6621 LRB 02/05/09

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24