

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1133
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 ENGROSSED
6 SENATE BILL NO. 1133

By: Jolley of the Senate
and
Denney of the House

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8
9 PROPOSED COMMITTEE SUBSTITUTE

10 (professions and occupations - Oklahoma
11 Interventional Pain Management and Treatment Act -
12 codification -
13 emergency)

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16
17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

23 B. As used in this section:
24

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

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

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

- 10 a. ablation of targeted nerves,
- 11 b. percutaneous precision needle placement with placement
12 of drugs in targeted areas, such as local anesthetics,
13 steroids, analgesics, peripheral nerve blocks,
14 epidural injections and spinal joint injections, and
- 15 c. surgical techniques, such as laser or endoscopic
16 diskectomy, intrathecal infusion pumps and spinal cord
17 stimulators.

18 C. It shall be unlawful to practice or offer to practice
19 interventional pain management in this state unless such person has
20 been duly licensed under the provisions of the Oklahoma Allopathic
21 Medical and Surgical Licensure and Supervision Act or the Oklahoma
22 Osteopathic Medicine Act.

23 D. 1. Nothing in this section shall prevent a certified
24 registered nurse anesthetist from administering a lumbar intra-

1 laminar epidural steroid injection when requested to do so by a
2 physician and under the direct supervision of a physician.

3 2. A certified registered nurse anesthetist shall not operate a
4 freestanding pain management facility without direct supervision of
5 a physician who is board-certified in interventional pain management
6 or its equivalent.

7 E. The State Board of Medical Licensure and Supervision shall
8 establish guidelines for the standard of care for interventional
9 pain management, including the proper use of fluoroscopy in such
10 practice. Nothing in this section shall be construed to affect or
11 give jurisdiction to the State Board of Medical Licensure and
12 Supervision over any osteopathic physician properly licensed by the
13 State Board of Osteopathic Examiners.

14 SECTION 2. AMENDATORY 59 O.S. 2001, Section 491, as last
15 amended by Section 2, Chapter 358, O.S.L. 2008 (59 O.S. Supp. 2008,
16 Section 491), is amended to read as follows:

17 Section 491. A. 1. Every person before practicing medicine
18 and surgery or any of the branches or departments of medicine and
19 surgery, within the meaning of the Oklahoma Allopathic Medical and
20 Surgical Licensure and Supervision Act or the Oklahoma
21 Interventional Pain Management and Treatment Act, within this state,
22 must be in legal possession of the unrevoked license or certificate
23 issued pursuant to the Oklahoma Allopathic Medical and Surgical
24 Licensure and Supervision Act.

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

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

14 4. Any person who practices medicine and surgery or any of the
15 branches or departments thereof without first complying with the
16 provisions of the Oklahoma Allopathic Medical and Surgical Licensure
17 and Supervision Act or the Oklahoma Interventional Pain Management
18 and Treatment Act shall, in addition to the other penalties provided
19 therein, receive no compensation for such medical and surgical or
20 branches or departments thereof services.

21 B. 1. If a license has been revoked or suspended pursuant to
22 the Oklahoma Allopathic Medical and Surgical Licensure and
23 Supervision Act whether for disciplinary reasons or for failure to
24 renew the license, the State Board of Medical Licensure and

1 Supervision may, subject to rules promulgated by the Board, assess
2 and collect an administrative fine not to exceed Five Thousand
3 Dollars (\$5,000.00) for each day after revocation or suspension
4 whether for disciplinary reasons or for failure to renew such
5 license that the person practices medicine and surgery or any of the
6 branches or departments thereof within this state.

7 2. The Board may impose administrative penalties against any
8 person who violates any of the provisions of the Oklahoma
9 Interventional Pain Management and Treatment Act or any rule
10 promulgated pursuant thereto. The Board is authorized to initiate
11 disciplinary and injunctive proceedings against any person who has
12 violated any of the provisions of the Oklahoma Interventional Pain
13 Management and Treatment Act or any rule of the Board promulgated
14 pursuant thereto. The Board is authorized in the name of the state
15 to apply for relief by injunction in the established manner provided
16 in cases of civil procedure, without bond, to enforce the provisions
17 of the Oklahoma Interventional Pain Management and Treatment Act, or
18 to restrain any violation thereof. The members of the Board shall
19 not be personally liable for proceeding under this section.

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

22 SECTION 3. AMENDATORY 59 O.S. 2001, Section 622, is
23 amended to read as follows:

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

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

10 3. Osteopathic physicians engaged in interventional pain
11 management pursuant to the Oklahoma Interventional Pain Management
12 and Treatment Act shall be licensed by the State Board of
13 Osteopathic Examiners.

14 B. 1. A person within or outside of this state who performs
15 through electronic communications diagnostic or treatment services
16 within the scope of practice of an osteopathic physician and surgeon
17 for any patient whose condition is being diagnosed or treated within
18 this state shall be licensed in this state, pursuant to the
19 provisions of the Oklahoma Osteopathic Medicine Act. However, in
20 such cases, a nonresident osteopathic physician who, while located
21 outside this state, consults on an irregular basis with a physician
22 who is located in this state is not required to be licensed in this
23 state.

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

7 3. Any commissioned medical officer of the armed forces of the
8 United States or medical officer of the United States Public Health
9 Service or the Veterans Administration of the United States, in the
10 discharge of official duties and/or within federally controlled
11 facilities, who is fully licensed to practice osteopathic medicine
12 and surgery in one or more jurisdictions of the United States shall
13 not be required to be licensed in this state pursuant to the
14 Oklahoma Osteopathic Medicine Act, unless the person already holds
15 an osteopathic medical license in this state pursuant to the
16 Oklahoma Osteopathic Medicine Act. In such case, the medical
17 officer shall be subject to the Oklahoma Osteopathic Medicine Act.

18 4. A person who performs any of the functions covered by this
19 subsection submits themselves to the jurisdiction of the courts of
20 this state for the purposes of any cause of action resulting from
21 the functions performed.

22 C. A hospital or related institution, as such terms are defined
23 in Section 1-701 of Title 63 of the Oklahoma Statutes, which has the
24 principal purpose or function of providing hospital or medical care,

1 including but not limited to any corporation, association, trust, or
2 other organization organized and operated for such purpose, may
3 employ one or more persons who are duly licensed to practice
4 osteopathic medicine in this state without being regarded as itself
5 practicing osteopathic medicine within the meaning and provisions of
6 this section. The employment by the hospital or related institution
7 of any person who is duly licensed shall not, in and of itself, be
8 considered as an act of unprofessional conduct by the person so
9 employed. Nothing provided herein shall eliminate, limit or
10 restrict the liability for any act or failure to act of any
11 hospital, any hospital's employees or persons duly licensed to
12 practice osteopathic medicine.

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

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18 52-1-7374 SAB 03/24/09

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