

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 SENATE BILL NO. 1133

By: Jolley of the Senate

and

6 Denney, Derby and Ritze of  
7 the House

8  
9 COMMITTEE SUBSTITUTE

10 An Act relating to professions and occupations;  
11 creating the Oklahoma Interventional Pain Management  
12 and Treatment Act; providing short title; defining  
13 terms; prohibiting the practice of interventional  
14 pain management by certain persons; amending 59 O.S.  
15 2001, Section 491, as last amended by Section 2,  
16 Chapter 358, O.S.L. 2008 (59 O.S. Supp. 2009, Section  
17 491), which relates to allopathic medicine; providing  
18 for certain regulations on pain management and  
19 treatment; authorizing the State Board of Medical  
20 Licensure and Supervision to impose certain  
21 administrative penalties; authorizing the Board to  
22 initiate certain proceedings; permitting the Board to  
23 apply for certain relief; exempting certain persons  
24 from personal liability; amending 59 O.S. 2001,  
Section 622, as amended by Section 5, Chapter 148,  
O.S.L. 2009 (59 O.S. Supp. 2009, Section 622), which  
relates to licensing requirements for osteopaths;  
requiring certain license; providing for  
codification; and declaring an emergency.

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

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

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

6           B. As used in this section:

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

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

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

16           a. ablation of targeted nerves,

17           b. percutaneous precision needle placement with placement  
18 of drugs in targeted areas, such as local anesthetics,  
19 steroids, analgesics, peripheral nerve blocks,  
20 epidural injections and spinal joint injections, and

21           c. surgical techniques, such as laser or endoscopic  
22 diskectomy, intrathecal infusion pumps and spinal cord  
23 stimulators.

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1 C. It shall be unlawful to practice or offer to practice  
2 interventional pain management in this state unless such person has  
3 been duly licensed under the provisions of the Oklahoma Allopathic  
4 Medical and Surgical Licensure and Supervision Act or the Oklahoma  
5 Osteopathic Medicine Act.

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

11 2. A certified registered nurse anesthetist shall not operate a  
12 freestanding pain management facility without direct supervision of  
13 a physician who is board-certified in interventional pain management  
14 or its equivalent.

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

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

1 unrevoked license or certificate issued pursuant to the Oklahoma  
2 Allopathic Medical and Surgical Licensure and Supervision Act.

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

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

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

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

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

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

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

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

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

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

19        B. 1. A person within or outside of this state who performs  
20 through electronic communications diagnostic or treatment services  
21 within the scope of practice of an osteopathic physician and  
22 surgeon, including but not limited to, stroke prevention and  
23 treatment, for any patient whose condition is being diagnosed or  
24 treated within this state shall be licensed in this state, pursuant

1 to the provisions of the Oklahoma Osteopathic Medicine Act.  
2 However, in such cases, a nonresident osteopathic physician who,  
3 while located outside this state, consults on an irregular basis  
4 with a physician who is located in this state is not required to be  
5 licensed in this state.

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

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

23 4. A person who performs any of the functions covered by this  
24 subsection submits themselves to the jurisdiction of the courts of

1 this state for the purposes of any cause of action resulting from  
2 the functions performed.

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

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

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23 52-2-9758 AM 02/11/10  
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