

1 STATE OF OKLAHOMA

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

3 CONFERENCE COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL 479

By: (Jolley) and Lamb of the
Senate

6 and

7 Jackson of the House

8
9 CONFERENCE 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; clarifying scope
15 of certain provisions; prohibiting certified
16 registered nurse anesthetists from operating certain
17 facilities without specified supervision; amending 59
18 O.S. 2001, Section 491, as last amended by Section 2,
19 Chapter 358, O.S.L. 2008 (59 O.S. Supp. 2009, Section
20 491), which relates to the practice of medicine and
21 surgery; expanding scope of certain provisions;
22 authorizing the State Board of Medical Licensure and
23 Supervision to impose certain administrative
24 penalties; authorizing the Board to initiate certain
proceedings; authorizing the Board to apply for
certain relief; exempting Board members 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 the
practice of osteopathic medicine; requiring certain
license for person engaged in specified practices;
providing for codification; and declaring an
emergency.

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

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

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

7 B. As used in this section:

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

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

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

17 a. ablation of targeted nerves,

18 b. percutaneous precision needle placement within the
19 spinal column with placement of drugs such as local
20 anesthetics, steroids, analgesics in targeted areas of
21 the spinal column, or

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

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. Nothing in this section shall be construed to forbid the
7 administration of lumbar intra-laminar epidural steroid injections
8 or peripheral nerve blocks by a certified registered nurse
9 anesthetist when requested to do so by a physician and under the
10 supervision of an allopathic or osteopathic physician licensed in
11 this state and under conditions in which timely on-site consultation
12 by such allopathic or osteopathic physician is available.

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

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

20 Section 491. A. 1. Every person before practicing medicine
21 and surgery or any of the branches or departments of medicine and
22 surgery, within the meaning of the Oklahoma Allopathic Medical and
23 Surgical Licensure and Supervision Act, the Oklahoma Osteopathic
24 Medicine Act, or the Oklahoma Interventional Pain Management and

1 Treatment Act, within this state, must be in legal possession of the
2 unrevoked license or certificate issued pursuant to the Oklahoma
3 Allopathic Medical and Surgical Licensure and Supervision Act.

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

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

17 4. Any person who practices medicine and surgery or any of the
18 branches or departments thereof without first complying with the
19 provisions of the Oklahoma Allopathic Medical and Surgical Licensure
20 and Supervision Act, the Oklahoma Osteopathic Medicine Act, or the
21 Oklahoma Interventional Pain Management and Treatment Act shall, in
22 addition to the other penalties provided therein, receive no
23 compensation for such medical and surgical or branches or
24 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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