

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1732

By: Cox

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5
6 AS INTRODUCED

7 An Act relating to professions and occupations;
8 amending 59 O.S. 2001, Sections 492 and 621, which
9 relate to the practice of medicine and surgery;
defining certain term; and providing an effective
date.

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

13 SECTION 1. AMENDATORY 59 O.S. 2001, Section 492, is
14 amended to read as follows:

15 Section 492. A. Every person shall be regarded as practicing
16 allopathic medicine within the meaning and provisions of ~~this act~~
17 the Oklahoma Allopathic Medical and Surgical Licensure and
18 Supervision Act, who shall append to his or her name the letters
19 "M.D.", "Physician" or any other title, letters or designation which
20 represent that such person is a physician, or who shall for a fee or
21 any form of compensation diagnose and/or treat disease, injury or
22 deformity of persons in this state by any allopathic legend drugs,
23 surgery, manual, or mechanical treatment unless otherwise authorized
24 by law.

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

16 C. The definition of the practice of medicine and surgery shall
17 include, but is not limited to:

18 1. Advertising, holding out to the public, or representing in
19 any manner that one is authorized to practice medicine and surgery
20 in this state;

21 2. Any offer or attempt to prescribe, order, give, or
22 administer any drug or medicine and surgery for the use of any other
23 person, except as otherwise authorized by law;

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- 1 3. a. Any offer or attempt, except as otherwise authorized
2 by law, to prevent, diagnose, correct, or treat in any
3 manner or by any means, methods, devices, or
4 instrumentalities except for manual manipulation any
5 disease, illness, pain, wound, fracture, infirmity,
6 defect, or abnormal physical or mental condition of
7 any person, including the management of pregnancy and
8 parturition, except as otherwise authorized by law.
- 9 b. Except as provided in subsection D of this section,
10 performance by a person outside of this state, through
11 an ongoing regular arrangement, of diagnostic or
12 treatment services through electronic communications
13 for any patient whose condition is being diagnosed or
14 treated within this state. A person who performs any
15 of the functions covered by this subparagraph submits
16 himself or herself to the jurisdiction of the courts
17 of this state for the purposes of any cause of action
18 resulting from the functions performed.
- 19 c. Nothing in the Oklahoma Allopathic Medical and
20 Surgical Licensure and Supervision Act shall be
21 construed to affect or give jurisdiction to the Board
22 over any person other than medical doctors or persons
23 holding themselves out as medical doctors;
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1 4. Any offer or attempt to perform any surgical operation upon
2 any person, except as otherwise authorized by law; and

3 5. The use of the title Doctor of Medicine, Physician, Surgeon,
4 Physician and Surgeon, Dr., M.D. or any combination thereof in the
5 conduct of any occupation or profession pertaining to the
6 prevention, diagnosis, or treatment of human disease or condition
7 unless, where appropriate, such a designation additionally contains
8 the description of another branch of the healing arts for which one
9 holds a valid license in this state.

10 D. The practice of medicine and surgery, as defined in this
11 section, shall not include:

12 1. A student while engaged in training in a medical school
13 approved by the Board or while engaged in graduate medical training
14 under the supervision of the medical staff of a hospital or other
15 health care facility approved by the state medical board for such
16 training, except that a student engaged in graduate medical training
17 shall hold a license issued by the Board for such training;

18 2. Any person who provides medical treatment in cases of
19 emergency where no fee or other consideration is contemplated,
20 charged or received;

21 3. A commissioned medical officer of the armed forces of the
22 United States or medical officer of the United States Public Health
23 Service ~~of the Veterans Administration of~~ or the United States
24 Department of Veterans Affairs in the discharge of official duties

1 and/or within federally controlled facilities; and provided that
2 such person shall be fully licensed to practice medicine and surgery
3 in one or more jurisdictions of the United States; provided further
4 that such person who holds a medical license in this state shall be
5 subject to the provisions of the Oklahoma Allopathic Medical and
6 Surgical Licensure and Supervision Act;

7 4. Any person licensed under any other act when properly
8 practicing in the healing art for which that person is duly
9 licensed;

10 5. The practice of those who endeavor to prevent or cure
11 disease or suffering by spiritual means or prayer;

12 6. Any person administering a domestic or family remedy to a
13 member of such person's own family;

14 7. Any person licensed to practice medicine and surgery in
15 another state or territory of the United States who renders
16 emergency medical treatment or briefly provides critical medical
17 service at the specific lawful direction of a medical institution or
18 federal agency that assumes full responsibility for that treatment
19 or service and is approved by the Board;

20 8. Any person who is licensed to practice medicine and surgery
21 in another state or territory of the United States whose sole
22 purpose and activity is limited to brief actual consultation with a
23 specific physician who is licensed to practice medicine and surgery
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1 by the Board, other than a person with a special or restricted
2 license; or

3 9. The practice of any other person as licensed by appropriate
4 agencies of this state, provided that such duties are consistent
5 with the accepted standards of the person's profession and the
6 person does not represent himself or herself as a Doctor of
7 Medicine, Physician, Surgeon, Physician and Surgeon, Dr., M.D., or
8 any combination thereof.

9 E. "Surgical methods" means:

10 1. Structurally altering the human body by the incision or
11 destruction of tissues;

12 2. The diagnostic or therapeutic treatment of conditions or
13 disease processes by any instruments causing localized alteration or
14 transposition of live human tissue which include ultrasound,
15 ionizing radiation, scalpels, probes, and needles;

16 3. Cutting, burning, freezing, suturing, probing, or
17 manipulating tissue by closed reductions for major dislocations or
18 fractures, or otherwise altering by mechanical, thermal, light-
19 based, electromagnetic, or chemical means; or

20 4. Injection of diagnostic or therapeutic substances into body
21 cavities, internal organs, joints, sensory organs, and the central
22 nervous system.

23 F. Nothing in the Oklahoma Allopathic Medical and Surgical
24 Licensure and Supervision Act shall prohibit:

1 1. The service rendered by a physician's unlicensed trained
2 assistant, if such service is rendered under the supervision and
3 control of a licensed physician pursuant to Board rules, provided
4 such rules are not in conflict with the provisions of any other
5 healing arts licensure act or rules promulgated pursuant to such
6 act; or

7 2. The service of any other person duly licensed or certified
8 by the state to practice the healing arts.

9 ~~F.~~ G. Nothing in the Oklahoma Allopathic Medical and Surgical
10 Licensure and Supervision Act shall prohibit services rendered by
11 any person not licensed by the Board and practicing any
12 nonallopathic healing practice.

13 SECTION 2. AMENDATORY 59 O.S. 2001, Section 621, is
14 amended to read as follows:

15 Section 621. As used in the Oklahoma Osteopathic Medicine Act:

16 1. "Osteopathic medicine" means a system of health care founded
17 by Andrew Taylor Still and based on the theory that the body is
18 capable of making its own remedies against disease and other toxic
19 conditions when it is in normal structural relationship and has
20 favorable environmental conditions and adequate nutrition.
21 Osteopathic medicine utilizes generally accepted physical,
22 pharmacological and surgical methods of diagnosis and therapy while
23 placing strong emphasis on the importance of body mechanics and

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1 manipulative methods to detect and correct faulty structure and
2 function; and

3 2. "Surgical methods" means:

4 a. structurally altering the human body by the incision
5 or destruction of tissues,

6 b. the diagnostic or therapeutic treatment of conditions
7 or disease processes by any instruments causing
8 localized alteration or transposition of live human
9 tissue which include ultrasound, ionizing radiation,
10 scalpels, probes, and needles,

11 c. cutting, burning, freezing, suturing, probing, or
12 manipulating tissue by closed reductions for major
13 dislocations or fractures, or otherwise altering by
14 mechanical, thermal, light-based, electromagnetic, or
15 chemical means, or

16 d. injection of diagnostic or therapeutic substances into
17 body cavities, internal organs, joints, sensory
18 organs, and the central nervous system.

19 SECTION 3. This act shall become effective November 1, 2009.

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