

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 HOUSE BILL 2630

By: Cox

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5
6 AS INTRODUCED

7 An Act relating to professions and occupations;
8 requiring certain licensees or applicants to allow
9 the State Board of Medical Licensure and Supervision
10 to inspect records; amending 59 O.S. 2011, Section
11 492, which relates to designation of physicians;
12 requiring an active license to use certain
13 designation; amending 59 O.S. 2011, Section 540.11,
14 which relates to the issuance of a temporary license
15 of a therapeutic recreation specialist without
16 examination; providing that conditions for granting
17 temporary license be established by Board rule;
18 establishing legislative purpose; amending 59 O.S.
19 2011, Section 887.2, which relates to definitions;
20 modifying definitions; adding definitions; amending
21 59 O.S. 2011, Section 887.12, which relates to the
22 renewal of licenses of physical therapists;
23 permitting license to be renewed by completing
24 jurisprudence examination; amending 59 O.S. 2011,
25 Section 887.17, which relates to the referral of
26 physical therapists by certain individuals; removing
27 requirement that physician or surgeon possess
28 unlimited license; amending 59 O.S. 2011, Section
29 2037, which relates to the licenses of respiratory
30 care practitioners; removing amount of certain fee;
31 requiring licensee to provide proof of certain
32 certification; providing for codification; and
33 providing an effective date.

34 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 512a of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

4 Any licensee or applicant for license subject to the provisions
5 of the Oklahoma Allopathic Medical and Surgical Licensure and
6 Supervision Act shall be deemed to have given consent to any duly
7 authorized employee or agent of the State Board of Medical Licensure
8 and Supervision to access, enter, or inspect any records, either on
9 site at the licensee or applicant's place of employment or at the
10 Board office. Refusal to allow such access, entry, or inspection
11 may constitute grounds for the denial, nonrenewal, suspension, or
12 revocation of a license. Upon refusal of such access, entry, or
13 inspection, the Board or a duly authorized representative may make
14 application for and may obtain a search warrant from the Oklahoma
15 County District Court in order to allow such access, entry or
16 inspection.

17 SECTION 2. AMENDATORY 59 O.S. 2011, Section 492, is
18 amended to read as follows:

19 Section 492. A. Every person shall be regarded as practicing
20 allopathic medicine within the meaning and provisions of this act
21 and shall require an active Oklahoma medical license, who shall
22 append to his or her name the letters "M.D.", "Physician" or any
23 other title, letters or designation which represent that such person
24 is a physician, or who shall for a fee or any form of compensation

1 diagnose and/or treat disease, injury or deformity of persons in
2 this state by any allopathic legend drugs, surgery, manual, or
3 mechanical treatment unless otherwise authorized by law.

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

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

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

24

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

4 3. a. Any offer or attempt, except as otherwise authorized
5 by law, to prevent, diagnose, correct, or treat in any
6 manner or by any means, methods, devices, or
7 instrumentalities except for manual manipulation any
8 disease, illness, pain, wound, fracture, infirmity,
9 defect, or abnormal physical or mental condition of
10 any person, including the management of pregnancy and
11 parturition, except as otherwise authorized by law.

12 b. Except as provided in subsection D of this section,
13 performance by a person within or outside of this
14 state, through an ongoing regular arrangement, of
15 diagnostic or treatment services, including but not
16 limited to, stroke prevention and treatment, through
17 electronic communications for any patient whose
18 condition is being diagnosed or treated within this
19 state by a physician duly licensed and practicing in
20 this state. A person who performs any of the
21 functions covered by this subparagraph submits himself
22 or herself to the jurisdiction of the courts of this
23 state for the purposes of any cause of action
24 resulting from the functions performed.

1 c. Nothing in the Oklahoma Allopathic Medical and
2 Surgical Licensure and Supervision Act shall be
3 construed to affect or give jurisdiction to the Board
4 over any person other than medical doctors or persons
5 holding themselves out as medical doctors;

6 4. Any offer or attempt to perform any surgical operation upon
7 any person, except as otherwise authorized by law; and

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

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

17 1. A student while engaged in training in a medical school
18 approved by the Board or while engaged in graduate medical training
19 under the supervision of the medical staff of a hospital or other
20 health care facility approved by the state medical board for such
21 training, except that a student engaged in graduate medical training
22 shall hold a license issued by the Board for such training;

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

4 3. A commissioned medical officer of the armed forces of the
5 United States or medical officer of the United States Public Health
6 Service or the Department of Veterans Affairs of the United States
7 in the discharge of official duties and/or within federally
8 controlled facilities; and provided that such person shall be fully
9 licensed to practice medicine and surgery in one or more
10 jurisdictions of the United States; provided further that such
11 person who holds a medical license in this state shall be subject to
12 the provisions of the Oklahoma Allopathic Medical and Surgical
13 Licensure and Supervision Act;

14 4. Any person licensed under any other act when properly
15 practicing in the healing art for which that person is duly
16 licensed;

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

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

21 7. Any person licensed to practice medicine and surgery in
22 another state or territory of the United States who renders
23 emergency medical treatment or briefly provides critical medical
24 service at the specific lawful direction of a medical institution or

1 federal agency that assumes full responsibility for that treatment
2 or service and is approved by the Board;

3 8. Any person who is licensed to practice medicine and surgery
4 in another state or territory of the United States whose sole
5 purpose and activity is limited to brief actual consultation with a
6 specific physician who is licensed to practice medicine and surgery
7 by the Board, other than a person with a special or restricted
8 license; or

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

15 E. Nothing in the Oklahoma Allopathic Medical and Surgical
16 Licensure and Supervision Act shall prohibit:

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

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

1 ~~F. Nothing in the Oklahoma Allopathic Medical and Surgical~~
2 ~~Licensure and Supervision Act shall prohibit services rendered by~~
3 ~~any person not licensed by the Board and practicing any~~
4 ~~nonallopathic healing practice.~~

5 SECTION 3. AMENDATORY 59 O.S. 2011, Section 540.11, is
6 amended to read as follows:

7 Section 540.11 A. Upon payment to the State Board of Medical
8 Licensure and Supervision of a fee as provided by the Therapeutic
9 Recreation Practice Act and submission of a written application on
10 forms provided by the Board, the Board may issue a license without
11 examination to any person who is licensed or otherwise certified as
12 a therapeutic recreation specialist by another state or national
13 certifying body which has substantially the same standards for
14 licensure as are required by this state pursuant to the provisions
15 of the Therapeutic Recreation Practice Act.

16 B. Upon proper application and payment of fees, the Board may
17 issue a temporary license to a person who has applied for a license
18 pursuant to the provisions of ~~this act~~ the Therapeutic Recreation
19 Practice Act and who is eligible to take the examination pursuant to
20 the provisions of this act. ~~The temporary license shall be~~
21 ~~available to an applicant only with respect to his or her first~~
22 ~~application for licensure. The temporary license shall expire upon~~
23 ~~notice that the applicant has or has not passed the examination~~
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1 Conditions for granting a temporary license and the duration of such
2 license shall be established by Board rule.

3 SECTION 4. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 887.1a of Title 59, unless there
5 is created a duplication in numbering, reads as follows:

6 The Physical Therapy Practice Act is enacted for the purpose of
7 protecting the public health, safety, and welfare, and provides for
8 state administrative control, supervision, licensure and regulation
9 of the practice of physical therapy. It is the intent of the
10 Legislature that only individuals who meet and maintain prescribed
11 standards of competence and conduct may engage in the practice of
12 physical therapy as authorized by the Physical Therapy Practice Act.
13 The Physical Therapy Practice Act shall be liberally construed to
14 promote the public interest and to accomplish the purpose stated
15 herein.

16 SECTION 5. AMENDATORY 59 O.S. 2011, Section 887.2, is
17 amended to read as follows:

18 Section 887.2 As used in the Physical Therapy Practice Act:

19 1. "Physical therapy" means ~~the use of selected knowledge and~~
20 ~~skills in planning, organizing and directing programs for the care~~
21 ~~of individuals whose ability to function is impaired or threatened~~
22 ~~by disease or injury, encompassing preventive measures, screening,~~
23 ~~tests in aid of diagnosis by a licensed doctor of medicine,~~
24 ~~osteopathy, chiropractic, dentistry or podiatry, or a physician~~

1 ~~assistant, and evaluation and invasive or noninvasive procedures~~
2 ~~with emphasis on the skeletal system, neuromuscular and~~
3 ~~cardiopulmonary function, as it relates to physical therapy.~~
4 ~~Physical therapy includes screening or evaluations performed to~~
5 ~~determine the degree of impairment of relevant aspects such as, but~~
6 ~~not limited to, nerve and muscle function including transeutaneous~~
7 ~~bioelectrical potentials, motor development, functional capacity and~~
8 ~~respiratory or circulatory efficiency. Physical therapy also~~
9 ~~includes physical therapy treatment performed upon referral by a~~
10 ~~licensed doctor of medicine, osteopathy, dentistry, chiropractic or~~
11 ~~podiatry, or a physician assistant including, but not limited to,~~
12 ~~exercises for increasing or restoring strength, endurance,~~
13 ~~coordination and range of motion, stimuli to facilitate motor~~
14 ~~activity and learning, instruction in activities of daily living and~~
15 ~~the use of assistive devices and the application of physical agents~~
16 ~~to relieve pain or alter physiological status. The use of roentgen~~
17 ~~rays and radium for diagnostic or therapeutic purposes, the use of~~
18 ~~electricity for surgical purposes, including cauterization and~~
19 ~~colonic irrigations are not authorized under the term "physical~~
20 ~~therapy" as used in this chapter care and services provided by or~~
21 ~~under the direction and supervision of a physical therapist who is~~
22 ~~licensed pursuant to the provisions of the Physical Therapy Practice~~
23 ~~Act;~~
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1 2. "Physical therapist assistant" means a person who assists in
2 the practice of physical therapy subject to the direction and
3 supervision of a licensed physical therapist, who meets all the
4 educational requirements, and who is licensed pursuant to the
5 provisions of the Physical Therapy Practice Act;

6 3. "~~Licensed physical~~ Physical therapist" means a person who is
7 licensed ~~as required in~~ pursuant to the provisions of the Physical
8 Therapy Practice Act ~~and who regularly practices~~ to practice
9 physical therapy;

10 4. "Board" means the State Board of Medical Licensure and
11 Supervision; ~~and~~

12 5. "Committee" means the Physical Therapy Committee; and

13 6. "Practice of physical therapy" means:

14 a. examining, evaluating, and testing individuals with
15 mechanical, physiological and developmental
16 impairments, functional limitations, and disabilities
17 or other health- and movement-related conditions in
18 order to determine a diagnosis for physical therapy,
19 prognosis and plan of treatment intervention, and to
20 assess the ongoing effects of intervention,

21 b. alleviating impairments, functional limitations and
22 disabilities involving musculoskeletal, neuromuscular,
23 cardiopulmonary and integumentary function by
24 designing, implementing and modifying treatment

1 interventions that may include, but are not limited
2 to: therapeutic exercise, functional training, motor
3 development, community or work integration or
4 reintegration, functional capacity, manual therapy
5 techniques, therapeutic massage, prescription,
6 application and, as appropriate, fabrication of
7 assistive, adaptive, protective and supportive devices
8 and equipment, integumentary protection and repair
9 techniques, debridement and wound care, physical
10 agents or modalities, mechanical and
11 electrotherapeutic modalities, including
12 transcutaneous bioelectric potentials, and patient-
13 related instruction,
14 c. reducing the risk of injury, impairment, functional
15 limitation and disability, including the promotion and
16 maintenance of fitness, health and wellness in
17 populations of all ages, and
18 d. engaging in administration, consultation, education
19 and research.

20 SECTION 6. AMENDATORY 59 O.S. 2011, Section 887.12, is
21 amended to read as follows:

22 Section 887.12 A. 1. Except as otherwise provided by the
23 Physical Therapy Practice Act, all licenses shall expire on January
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1 31 of each year. A license may be renewed during the month of
2 January of each year upon:

- 3 a. application,
- 4 b. evidence of satisfactory completion of a program of
5 continuing education, a jurisprudence examination or
6 of alternative requirements, as required by the State
7 Board of Medical Licensure and Supervision pursuant to
8 subsection B of this section, and
- 9 c. payment of fees.

10 2. Applications for renewal of licensure shall be sent by the
11 Board to all licensed physical therapists and physical therapist
12 assistants at their last-known address. Failure to renew a license
13 three (3) months after notification shall effect a forfeiture of the
14 license granted pursuant to the provisions of the Physical Therapy
15 Practice Act. Upon recommendation of the Board, a lapsed license
16 may be revived upon the payment of all unpaid registration fees and
17 pursuant to such rules as may be promulgated by the Board.

18 3. A physical therapist or physical therapist assistant who
19 fails to apply for a renewal of a license for five (5) years may
20 renew the license by complying with the provisions of the Physical
21 Therapy Practice Act relating to the issuance of an original
22 license.

23 B. For physical therapists and physical therapist assistants,
24 the Board shall establish by rule the requirements for:

- 1 1. A program of continuing education; ~~and~~
- 2 2. Alternative requirements to establish continuing competence
- 3 to practice; and
- 4 3. A jurisprudence examination.

5 The Board shall also establish by rule the minimum hours of
6 continuing education needed to satisfy these requirements. In
7 establishing these requirements, the Board shall consider any
8 existing programs of continuing education currently being offered to
9 licensed physical therapists or physical therapist assistants.

10 SECTION 7. AMENDATORY 59 O.S. 2011, Section 887.17, is
11 amended to read as follows:

12 Section 887.17 A. 1. Any person licensed under ~~this act~~ the
13 Physical Therapy Practice Act as a physical therapist or physical
14 therapist assistant shall treat human ailments by physical therapy
15 only under the referral of a person licensed as a physician or
16 surgeon ~~with unlimited license~~, or the physician assistant of the
17 person so licensed, and Doctors of Dentistry, Chiropractic and
18 Podiatry, with those referrals being limited to their respective
19 areas of training and practice; provided, however, a physical
20 therapist may provide services within the scope of physical therapy
21 practice without a physician referral to children who receive
22 physical therapy services pursuant to the Individuals with
23 Disabilities Education Improvement Act of 2004, as may be amended,
24 and the Rehabilitation Act of 1973, Section 504, as may be amended.

1 Provided further, a plan of care developed by a person authorized to
2 provide services within the scope of the Physical Therapy Practice
3 Act shall be deemed to be a prescription for purposes of providing
4 services pursuant to the provisions of the Individuals with
5 Disabilities Education Improvement Act of 2004, as may be amended,
6 and Section 504 of the Rehabilitation Act of 1973, as may be
7 amended.

8 2. Nothing in ~~this act~~ the Physical Therapy Practice Act shall
9 prevent a physical therapist from performing screening and
10 educational procedures within the scope of physical therapy practice
11 without a physician referral.

12 3. Nothing in ~~this act~~ the Physical Therapy Practice Act shall
13 be construed as authorization for a physical therapist or physical
14 therapist assistant to practice any branch of the healing art.

15 4. Any person violating the provisions of this act shall be
16 guilty of a misdemeanor as per Section 887.16 of this title.

17 B. 1. The provisions of this act are not intended to limit the
18 activities of persons legitimately engaged in the nontherapeutic
19 administration of baths, massage, and normal exercise.

20 2. ~~This act~~ The Physical Therapy Practice Act shall not
21 prohibit students who are enrolled in schools of physical therapy
22 approved by the State Board of Medical Licensure and Supervision
23 from performing such work as is incidental to their course of study;
24 nor shall it prevent any student in any recognized school of the

1 healing art in carrying out prescribed courses of study; provided
2 such school is a recognized institution by the statutes of Oklahoma,
3 and its practitioners are duly licensed as prescribed by law.

4 3. Nothing in ~~this act~~ the Physical Therapy Practice Act shall
5 apply to any person employed by an agency, bureau, or division of
6 the federal government while in the discharge of official duties,
7 however, if such individual engages in the practice of physical
8 therapy outside the line of official duty, the individual must be
9 licensed as herein provided.

10 SECTION 8. AMENDATORY 59 O.S. 2011, Section 2037, is
11 amended to read as follows:

12 Section 2037. A. Except as otherwise provided in the
13 Respiratory Care Practice Act, a license shall be renewed
14 biennially. The State Board of Medical Licensure and Supervision
15 shall ~~mail~~ send notices at least thirty (30) calendar days prior to
16 expiration for renewal of licenses to every person to whom a license
17 was issued or renewed during the preceding renewal period. The
18 licensee shall complete the notice of renewal and return it to the
19 Board with the renewal fee ~~of Seventy five Dollars (\$75.00)~~ and
20 proof of current certification by the National Board for Respiratory
21 Care before the date of expiration.

22 B. Upon receipt of the ~~notice of renewal~~ required documentation
23 and the fee, the Board shall verify its contents and shall issue the
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1 licensee a license for the current renewal period, which shall be
2 valid for the period stated thereon.

3 C. A licensee who allows the license to lapse by failing to
4 renew it may be reinstated by the Board upon payment of the renewal
5 fee and reinstatement fee of One Hundred Dollars (\$100.00);
6 provided, that such request for reinstatement is received within
7 thirty (30) days of the end of the renewal period.

8 D. 1. A licensed respiratory care practitioner who does not
9 intend to engage in the practice of respiratory care shall send a
10 written notice to that effect to the Board and is not required to
11 submit a notice of renewal and pay the renewal fee as long as the
12 practitioner remains inactive. Upon desiring to resume the practice
13 of respiratory care, the practitioner shall notify the Board in
14 writing of this intent and shall satisfy the current requirements of
15 the Board in addition to submitting a notice of renewal and
16 remitting the renewal fee for the current renewal period and the
17 reinstatement fee.

18 2. Rules of the Board shall provide for a specific period of
19 time of continuous inactivity after which retesting is required.

20 E. The Board is authorized to establish by rule fees for
21 replacement and duplicate licenses.

22 F. The Board shall by rule prescribe continuing education
23 requirements, not to exceed twelve (12) clock hours biennially, as a
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1 condition for renewal of license. The program criteria with respect
2 thereto shall be approved by the Board.

3 SECTION 9. This act shall become effective November 1, 2012.

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