

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 3078

By: Dorman

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5
6 AS INTRODUCED

7 An Act relating to professions and occupations;
8 amending 59 O.S. 2011, Section 492, which relates to
9 the practice of medicine and surgery; modifying
10 exemptions; and providing an effective date.

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

12 SECTION 1. AMENDATORY 59 O.S. 2011, Section 492, is
13 amended to read as follows:

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

22 B. 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 medicine in this state without being regarded as itself practicing
5 medicine within the meaning and provisions of this section. The
6 employment by the hospital or related institution of any person who
7 is duly licensed to practice medicine in this state shall not, in
8 and of itself, be considered as an act of unprofessional conduct by
9 the person so employed. Nothing provided herein shall eliminate,
10 limit, or restrict the liability for any act or failure to act of
11 any hospital, any hospital's employees, or persons duly licensed to
12 practice medicine.

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

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

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

21 3. a. Any offer or attempt, except as otherwise authorized
22 by law, to prevent, diagnose, correct, or treat in any
23 manner or by any means, methods, devices, or
24 instrumentalities except for manual manipulation any

1 disease, illness, pain, wound, fracture, infirmity,
2 defect, or abnormal physical or mental condition of
3 any person, including the management of pregnancy and
4 parturition, except as otherwise authorized by law.

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

18 c. Nothing in the Oklahoma Allopathic Medical and
19 Surgical Licensure and Supervision Act shall be
20 construed to affect or give jurisdiction to the Board
21 over any person other than medical doctors or persons
22 holding themselves out as medical doctors;

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

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

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

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

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

19 3. A commissioned medical officer of the armed forces of the
20 United States or medical officer of the United States Public Health
21 Service or the Department of Veterans Affairs of the United States
22 in the discharge of official duties and/or within federally
23 controlled facilities; and provided that such person shall be fully
24 licensed to practice medicine and surgery in one or more

1 jurisdictions of the United States; provided further that such
2 person who holds a medical license in this state shall be subject to
3 the provisions of the Oklahoma Allopathic Medical and Surgical
4 Licensure and Supervision Act;

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

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

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

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

18 8. Any person licensed to practice medicine and surgery in
19 another state or territory of the United States traveling with a
20 team as the team physician whose sole purpose is to provide
21 treatment to members of the team;

22 9. Any person who is licensed to practice medicine and surgery
23 in another state or territory of the United States whose sole
24 purpose and activity is limited to brief actual consultation with a

1 specific physician who is licensed to practice medicine and surgery
2 by the Board, other than a person with a special or restricted
3 license; or

4 ~~9.~~ 10. The practice of any other person as licensed by
5 appropriate agencies of this state, provided that such duties are
6 consistent with the accepted standards of the person's profession
7 and the person does not represent himself or herself as a Doctor of
8 Medicine, Physician, Surgeon, Physician and Surgeon, Dr., M.D., or
9 any combination thereof.

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

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

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

20 F. Nothing in the Oklahoma Allopathic Medical and Surgical
21 Licensure and Supervision Act shall prohibit services rendered by
22 any person not licensed by the Board and practicing any
23 nonallopathic healing practice.

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SECTION 2. This act shall become effective November 1, 2012.

53-2-7833 LRB 01/09/12