

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1461

6 By: Ownbey

7 COMMITTEE SUBSTITUTE

8 An Act relating to professions and occupations;  
9 amending 59 O.S. 2011, Sections 567.4, 567.5a, 567.8  
10 and 567.18, which relate to the Oklahoma Board of  
11 Nursing; requiring Board to fix compensation of  
12 Executive Director within certain pay grade;  
13 permitting Board to issue prescriptive authority  
14 recognition by endorsement to certain individuals if  
15 certain requirements are met; permitting criminal  
16 background checks to be initiated by Board or  
17 designated vendor; and providing an effective date.

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

19 SECTION 1. AMENDATORY 59 O.S. 2011, Section 567.4, is  
20 amended to read as follows:

21 Section 567.4 A. The Oklahoma Board of Nursing is hereby  
22 established in the State of Oklahoma. The Board shall consist of  
23 eleven (11) members who shall be citizens of the United States of  
24 America, and residents of Oklahoma, for at least the previous three  
(3) years. Six of the members shall be ~~registered nurses~~ Registered  
Nurses, in good standing under the provisions of the Oklahoma

1 Nursing Practice Act, currently engaged in the practice of nursing  
2 as a ~~registered nurse~~ Registered Nurse and shall have had no less  
3 than five (5) years of experience as a ~~registered nurse~~ Registered  
4 Nurse. At least two of the ~~registered nurses~~ Registered Nurses  
5 shall be from the field of nursing education, actively associated  
6 with a recognized school of nursing in Oklahoma, and who hold an  
7 organizational role of administration/management and who are  
8 accountable for strategic, operational and/or performance outcomes.  
9 At least two of the ~~registered nurses~~ Registered Nurses who hold an  
10 organizational role of administration/management and who are  
11 accountable for strategic, operational and/or performance outcomes  
12 shall represent nursing service. At least one of the ~~registered~~  
13 ~~nurses~~ Registered Nurses shall be currently engaged in the practice  
14 of nursing as an ~~advanced practice nurse~~ Advanced Practice  
15 Registered Nurse. Three of the members shall be ~~licensed practical~~  
16 ~~nurses~~ Licensed Practical Nurses in good standing under the  
17 provisions of the Oklahoma Nursing Practice Act and currently  
18 engaged in the practice of practical nursing as a ~~licensed practical~~  
19 ~~nurse~~ Licensed Practical Nurse and shall have had no less than five  
20 (5) years of experience as a ~~licensed practical nurse~~ Licensed  
21 Practical Nurse. One of the licensed nurses must be employed in the  
22 field of long-term care. One of the licensed nurses shall be  
23 employed in the area of acute care. Two members shall represent the  
24 public and shall be eligible voters of this state, knowledgeable in

1 consumer health concerns, and shall neither be nor ever have been  
2 associated with the provision of health care, nor be enrolled in any  
3 health-related educational program. The public members shall be  
4 appointed by the Governor to serve coterminously with the Governor.  
5 At least one ~~registered nurse~~ Registered Nurse Board member, one  
6 ~~licensed practical nurse~~ Licensed Practical Nurse Board member and  
7 one public Board member shall be appointed from a county with a  
8 population of less than forty thousand (40,000).

9 B. For the purpose of nominating, appointing or reappointing  
10 members to the Board, this state shall be divided into eight  
11 geographical districts, consisting of counties within the districts  
12 as follows:

13 District No. 1 Cimarron, Texas, Beaver, Harper, Woods, Alfalfa,  
14 Grant, Kay, Ellis, Woodward, Major, Garfield,  
15 Noble, Dewey, Blaine, Kingfisher and Logan;

16 District No. 2 Roger Mills, Custer, Beckham, Washita, Caddo,  
17 Greer, Kiowa, Harmon, Jackson, Comanche, Tillman  
18 and Cotton;

19 District No. 3 Canadian, Grady, McClain, Garvin, Stephens,  
20 Murray, Jefferson, Carter and Love;

21 District No. 4 Oklahoma;

22 District No. 5 Lincoln, Okfuskee, Cleveland, Pottawatomie,  
23 Seminole, Hughes, Pontotoc, Coal, Johnston,  
24 Marshall and Bryan;

1 District No. 6 Creek and Tulsa;  
2 District No. 7 Osage, Washington, Nowata, Craig, Ottawa,  
3 Pawnee, Payne, Rogers, Mayes and Delaware; and  
4 District No. 8 Wagoner, Cherokee, Adair, Okmulgee, Muskogee,  
5 Sequoyah, McIntosh, Haskell, Leflore, Pittsburg,  
6 Latimer, Atoka, Pushmataha, McCurtain and  
7 Choctaw.

8 Not more than one ~~registered nurse~~ Registered Nurse and one  
9 ~~licensed practical nurse~~ Licensed Practical Nurse and one public  
10 member shall be appointed from any one geographical district.

11 C. The Governor shall appoint the Registered Nurse Board  
12 members from a list of names submitted by the Oklahoma Nurses  
13 Association and Oklahoma chapters of nationally recognized  
14 ~~registered nurse~~ Registered Nurse organizations. The Governor shall  
15 appoint the ~~licensed practical nurse~~ Licensed Practical Nurse Board  
16 members from a list of names submitted by the ~~Oklahoma State~~  
17 ~~Association of LPN's~~ and Oklahoma chapters of nationally recognized  
18 ~~practical nurse~~ nursing organizations. Individuals who are members  
19 of the Oklahoma Board of Nursing prior to the effective date of this  
20 act shall be allowed to fulfill their terms and be eligible for  
21 reappointment.

22 D. The Registered Nurse and Licensed Practical Nurse members  
23 shall be appointed for terms of five (5) years. Upon the death,  
24 resignation, or removal of any member, a list from the

1 | aforementioned organizations shall be submitted to the Governor who  
2 | shall appoint a member to fill the vacancy.

3 |       1. In addition to the grounds for removal by the Governor of  
4 | members appointed to the Board provided in Section 2 of Title 74 of  
5 | the Oklahoma Statutes, it is a ground for removal if a member:

6 |           a. does not have at the time of appointment the  
7 |                qualifications required by subsection A of this  
8 |                section,

9 |           b. is not employed in nursing for a period of twelve (12)  
10 |               consecutive months during the term for which the  
11 |               member was appointed,

12 |           c. is absent from more than half of the regularly  
13 |                scheduled Board meetings that the member is eligible  
14 |                to attend during a calendar year, unless the absence  
15 |                is excused by a majority vote of the Board, or

16 |           d. cannot discharge the duties as a Board member for a  
17 |                substantial portion of the term for which the member  
18 |                is appointed because of illness or disability.

19 |       2. The validity of an action of the Board is not affected by  
20 | the fact that it is taken when a ground for removal of a Board  
21 | member exists.

22 |       3. If the president of the Board has knowledge that a potential  
23 | ground for removal exists, the president shall then notify the  
24 | Governor that a potential ground for removal exists.

1 E. A quorum shall be a majority of the Board which must include  
2 at least three ~~(3) registered nurses~~ Registered Nurses and one ~~(1)~~  
3 ~~licensed practical nurse~~ Licensed Practical Nurse.

4 F. The members of the Board shall annually elect from their  
5 number a president, vice-president and a secretary who shall also be  
6 the treasurer, and other such officers as necessary to conduct the  
7 business of the Board. It shall hold six ~~(6)~~ regular business  
8 meetings during each calendar year. Special meetings may be called  
9 by the president or secretary with five (5) days' notice to each  
10 member of the Board. The Board shall have a seal; it shall make and  
11 adopt all necessary rules not inconsistent with the laws of this  
12 state, the United States, or with the Oklahoma Nursing Practice Act;  
13 and it shall perform the duties and transact the business required  
14 under the provisions of the act. The Board shall cause to be kept a  
15 record of all meetings ~~for~~ of the Board and give notice of all  
16 meetings in accordance with the Administrative Procedures Act and  
17 the Open Meetings Act. A list of all persons duly licensed and  
18 qualified under this act shall be maintained by the Board. Each  
19 member of the Board shall receive, in addition to actual and  
20 necessary travel expenses as provided in the State Travel  
21 Reimbursement Act, compensation of One Hundred Dollars (\$100.00) for  
22 each regular scheduled monthly meeting attended, not to exceed more  
23 than six ~~(6)~~ meetings per year. All monies received by the Board  
24 shall be held by the treasurer of the Board for meeting the expenses

1 of the Board and for the promotion of nursing education, to employ  
2 an attorney to assist the Board and other state and county officials  
3 in carrying out the provisions of the Oklahoma Nursing Practice Act,  
4 and such other purposes which the Board may determine, and shall be  
5 disbursed as directed by the Board. The Board is authorized to  
6 adopt and revise rules, not inconsistent with the provisions of the  
7 Oklahoma Nursing Practice Act, as may be necessary to enable it to  
8 carry into effect the provisions of the act, including rules  
9 establishing fees, charges and reimbursement costs. The Board shall  
10 appoint and employ a qualified person, who shall be a ~~registered~~  
11 ~~nurse~~ Registered Nurse, to serve as Executive Director, and shall  
12 fix the compensation, within pay grade 11 or current equivalent of  
13 the Office of Management and Enterprise Services' pay group's study  
14 notwithstanding any other provision of law including Section 3601.2  
15 of Title 74 of the Oklahoma Statutes, require a satisfactory bond,  
16 and define the duties of the Executive Director.

17 SECTION 2. AMENDATORY 59 O.S. 2011, Section 567.5a, is  
18 amended to read as follows:

19 Section 567.5a A. All applicants for a license to practice as  
20 an Advanced Practice Registered Nurse shall be subject to Section  
21 567.8 of ~~Title 59 of the Oklahoma Statutes~~ this title.

22 B. An applicant for an initial license to practice as an  
23 Advanced Practice Registered Nurse shall:  
24

1        1. Submit a completed written application and appropriate fees  
2 as established by the Board;

3        2. Submit a criminal history records check that complies with  
4 Section 567.18 of this title;

5        3. Hold a current Registered Nurse license in this state;

6        ~~3.~~ 4. Have completed an advanced practice registered nursing  
7 education program in one of the four advanced practice registered  
8 nurse roles and a specialty area recognized by the Board. Effective  
9 January 1, 2016, the applicant shall have completed an accredited  
10 graduate level advanced practice registered nursing education  
11 program in at least one of the following population foci:

12 family/individual across the lifespan, adult-gerontology, neonatal,  
13 pediatrics, women's health/gender-related, or psychiatric/mental  
14 health;

15        ~~4.~~ 5. Be currently certified in an advanced practice specialty  
16 certification consistent with educational preparation and by a  
17 national certifying body recognized by the Board; and

18        ~~5.~~ 6. Provide any and all other evidence as required by the  
19 Board in its rules.

20        C. The Board may issue a license by endorsement to an Advanced  
21 Practice Registered Nurse licensed under the laws of another state  
22 if the applicant meets the qualifications for licensure in this  
23 state. An applicant by endorsement shall:

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- 1        1. Submit a completed written application and appropriate fees  
2 as established by the Board;
- 3        2. Hold a current Registered Nurse license in this state;
- 4        3. Hold recognition as an Advanced Practice Registered Nurse in  
5 a state or territory;
- 6        4. Have completed an advanced practice registered nursing  
7 education program in one of the four roles and a specialty area  
8 recognized by the Board. Effective January 1, 2016, the applicant  
9 shall have completed an accredited graduate level advanced practice  
10 registered nursing education program in at least one of the  
11 following population foci: family/individual across the lifespan,  
12 adult-gerontology, neonatal, pediatrics, women's health/gender-  
13 related, or psychiatric/mental health;
- 14        5. Be currently certified in an advanced practice specialty  
15 certification consistent with educational preparation and by a  
16 national certifying body recognized by the Board;
- 17        6. Meet continued competency requirements as set forth in Board  
18 rules; and
- 19        7. Provide any and all other evidence as required by the Board  
20 in its rules.

21        D. The Board may issue prescriptive authority recognition by  
22 endorsement to an Advanced Practice Registered Nurse licensed as an  
23 APRN-CNP, APRN-CNS, or APRN-CNM under the laws of another state if  
24 the applicant meets the requirements set forth in this section. An

1 applicant for prescriptive authority recognition by endorsement  
2 shall:

3 1. Submit a completed written application and appropriate fees  
4 as established by the Board;

5 2. Hold current Registered Nurse and Advanced Practice  
6 Registered Nurse licenses (APRN-CNP, APRN-CNS, or APRN-CNM) in the  
7 state;

8 3. Hold current licensure or recognition as an Advanced  
9 Practice Registered Nurse in the same role and specialty with  
10 prescribing privileges in another state or territory;

11 4. Submit documentation verifying successful completion of a  
12 graduate level advanced practice registered nursing education  
13 program that included an academic course in pharmacotherapeutic  
14 management, and didactic and clinical preparation for prescribing  
15 incorporated throughout the program;

16 5. Submit a written statement from an Oklahoma licensed  
17 physician supervising prescriptive authority as required by the  
18 Board in its rules;

19 6. Meet continued competency requirements as set forth in Board  
20 rules; and

21 7. Provide any and all other evidence as required by the Board  
22 in its rules.

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1        E. An Advanced Practice Registered Nurse license issued under  
2 this section shall be renewed concurrently with the registered nurse  
3 license provided that qualifying criteria continue to be met.

4        ~~E.~~ F. The Board may reinstate a license as set forth in Board  
5 rules.

6        SECTION 3.        AMENDATORY        59 O.S. 2011, Section 567.8, is  
7 amended to read as follows:

8        Section 567.8 A. The Oklahoma Board of Nursing shall have the  
9 power to take any or all of the following actions:

10        1. To deny, revoke or suspend any:

11            a. licensure to practice as a Licensed Practical Nurse,

12            b. licensure to practice as a Registered Nurse,

13            c. licensure to practice as an Advanced Practice  
14            Registered Nurse,

15            d. certification to practice as an ~~advanced unlicensed~~  
16            ~~assistive person~~ Advanced Unlicensed Assistant,

17            e. authorization for prescriptive authority, or

18            f. authority to order, select, obtain and administer  
19            drugs;

20        2. To assess administrative penalties; and

21        3. To otherwise discipline applicants, licensees or ~~advanced~~  
22 ~~unlicensed assistive persons~~ Advanced Unlicensed Assistants.

1 B. The Board shall impose a disciplinary action against the  
2 person pursuant to the provisions of subsection A of this section  
3 upon proof of one or more of the following items. The person:

4 1. Is guilty of deceit or material misrepresentation in  
5 procuring or attempting to procure:

6 a. a license to practice registered nursing, licensed  
7 practical nursing, or recognition to practice advanced  
8 practice registered nursing, or

9 b. certification as an ~~advanced unlicensed assistive~~  
10 ~~person~~ Advanced Unlicensed Assistant;

11 2. Is guilty of a felony, or any offense reasonably related to  
12 the qualifications, functions or duties of any licensee or ~~advanced~~  
13 ~~unlicensed assistant~~ Advanced Unlicensed Assistant, or any offense  
14 an essential element of which is fraud, dishonesty, or an act of  
15 violence, or for any offense involving moral turpitude, whether or  
16 not sentence is imposed, or any conduct resulting in the revocation  
17 of a deferred or suspended sentence or probation imposed pursuant to  
18 such conviction;

19 3. Fails to adequately care for patients or to conform to the  
20 minimum standards of acceptable nursing or ~~advanced unlicensed~~  
21 ~~assistant~~ Advanced Unlicensed Assistant practice that, in the  
22 opinion of the Board, unnecessarily exposes a patient or other  
23 person to risk of harm;

1           4. Is intemperate in the use of alcohol or drugs, which use the  
2 Board determines endangers or could endanger patients;

3           5. Exhibits through a pattern of practice or other behavior  
4 actual or potential inability to practice nursing with sufficient  
5 knowledge or reasonable skills and safety due to impairment caused  
6 by illness, use of alcohol, drugs, chemicals or any other substance,  
7 or as a result of any mental or physical condition, including  
8 deterioration through the aging process or loss of motor skills,  
9 mental illness, or disability that results in inability to practice  
10 with reasonable judgment, skill or safety; provided, however, the  
11 provisions of this paragraph shall not be utilized in a manner that  
12 conflicts with the provisions of the Americans with Disabilities  
13 Act;

14           6. Has been adjudicated as mentally incompetent, mentally ill,  
15 chemically dependent or dangerous to the public or has been  
16 committed by a court of competent jurisdiction, within or without  
17 this state;

18           7. Is guilty of unprofessional conduct as defined in the rules  
19 of the Board;

20           8. Is guilty of any act that jeopardizes a patient's life,  
21 health or safety as defined in the rules of the Board;

22           9. Violated a rule promulgated by the Board, an order of the  
23 Board, or a state or federal law relating to the practice of  
24 registered, practical or advanced practice registered nursing or

1 advanced unlicensed assisting, or a state or federal narcotics or  
2 controlled dangerous substance law;

3 10. Has had disciplinary actions taken against the individual's  
4 registered or practical nursing license, advanced unlicensed  
5 assistive certification, or any ~~health-related~~ professional or  
6 occupational license, registration or certification in this or any  
7 state, territory or country;

8 11. Has defaulted from the Peer Assistance Program for any  
9 reason;

10 12. Fails to maintain professional boundaries with patients, as  
11 defined in the Board rules; or

12 13. Engages in sexual misconduct, as defined in Board rules,  
13 with a current or former patient or key party, inside or outside the  
14 health care setting.

15 C. Any person who supplies the Board information in good faith  
16 shall not be liable in any way for damages with respect to giving  
17 such information.

18 D. The Board may cause to be investigated all reported  
19 violations of the Oklahoma Nursing Practice Act.

20 E. The Board may authorize the executive director to issue a  
21 confidential letter of concern to a licensee when evidence does not  
22 warrant formal proceedings, but the executive director has noted  
23 indications of possible errant conduct that could lead to serious  
24 consequences and formal action.

1 F. All individual proceedings before the Board shall be  
2 conducted in accordance with the Administrative Procedures Act.

3 G. At a hearing the accused shall have the right to appear  
4 either personally or by counsel, or both, to produce witnesses and  
5 evidence on behalf of the accused, to cross-examine witnesses and to  
6 have subpoenas issued by the designated Board staff. If the accused  
7 is found guilty of the charges the Board may refuse to issue a  
8 renewal of license to the applicant, revoke or suspend a license, or  
9 otherwise discipline a licensee.

10 H. A person whose license is revoked may not apply for  
11 reinstatement during the time period set by the Board. The Board on  
12 its own motion may at any time reconsider its action.

13 I. Any person whose license is revoked or who applies for  
14 renewal of registration and who is rejected by the Board shall have  
15 the right to appeal from such action pursuant to the Administrative  
16 Procedures Act.

17 J. 1. Any person who has been determined by the Board to have  
18 violated any provisions of the Oklahoma Nursing Practice Act or any  
19 rule or order issued pursuant thereto shall be liable for an  
20 administrative penalty not to exceed Five Hundred Dollars (\$500.00)  
21 for each count for which any holder of a certificate or license has  
22 been determined to be in violation of the Oklahoma Nursing Practice  
23 Act or any rule promulgated or order issued pursuant thereto.

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1           2. The amount of the penalty shall be assessed by the Board  
2 pursuant to the provisions of this section, after notice and an  
3 opportunity for hearing is given to the accused. In determining the  
4 amount of the penalty, the Board shall include, but not be limited  
5 to, consideration of the nature, circumstances, and gravity of the  
6 violation and, with respect to the person found to have committed  
7 the violation, the degree of culpability, the effect on ability of  
8 the person to continue to practice, and any show of good faith in  
9 attempting to achieve compliance with the provisions of the Oklahoma  
10 Nursing Practice Act.

11           K. The Board shall retain jurisdiction over any person issued a  
12 license, certificate or temporary license pursuant to this act,  
13 regardless of whether the license, certificate or temporary license  
14 has expired, lapsed or been relinquished during or after the alleged  
15 occurrence or conduct prescribed by this act.

16           L. In the event disciplinary action is imposed, any person so  
17 disciplined shall be responsible for any and all costs associated  
18 with satisfaction of the discipline imposed.

19           M. In the event disciplinary action is imposed in an  
20 administrative proceeding, the Board shall have the authority to  
21 recover the monies expended by the Board in pursuing any  
22 disciplinary action, including but not limited to costs of  
23 investigation, probation or monitoring fees, administrative costs,  
24 witness fees, attorney fees and court costs. This authority shall

1 be in addition to the Board's authority to impose discipline as set  
2 out in subsection A of this section.

3 N. The Executive Director shall immediately suspend the license  
4 of any person upon proof that the person has been sentenced to a  
5 period of continuous incarceration serving a penal sentence for  
6 commission of a misdemeanor or felony. The suspension shall remain  
7 in effect until the Board acts upon the licensee's written  
8 application for reinstatement of the license.

9 SECTION 4. AMENDATORY 59 O.S. 2011, Section 567.18, is  
10 amended to read as follows:

11 Section 567.18 A. The criminal background check shall include  
12 a criminal history records search conducted by the Oklahoma State  
13 Bureau of Investigation that is not more than ninety (90) days old.

14 B. Contingent upon available resources by the Board, all  
15 criminal background checks effective January 1, 2013, ~~shall include~~  
16 ~~all~~ are subject to the following:

17 1. Submission of a full set of fingerprints to the Board for  
18 the purpose of permitting a state and federal criminal history  
19 records search pursuant to Section 150.9 of Title 74 of the Oklahoma  
20 Statutes and Public Law ~~92-54~~ 92-544 that is not more than ninety  
21 (90) days old. The Oklahoma State Bureau of Investigation may  
22 exchange these fingerprints with the Federal Bureau of  
23 Investigation;

24

1           2. The applicant shall furnish the Board fingerprints as  
2 established by Board ~~rules~~ Rules and a money order or cashier's  
3 check made payable to the Oklahoma State Bureau of Investigation or  
4 the Board's designated vendor;

5           3. The Board shall forward the fingerprints along with the  
6 applicable fee for a national fingerprint criminal history records  
7 search to the Bureau;

8           4. The Bureau shall retain one set of fingerprints in the  
9 Automated Fingerprint Identification System and submit the other set  
10 to the FBI for a national criminal history records search;

11          5. Any and all state and federal criminal history record  
12 information obtained by the Board from the Bureau or the FBI which  
13 is not already a matter of public record shall be deemed nonpublic.  
14 The confidential information shall be restricted to the exclusive  
15 use of the Board, its members, officers, investigators, agents, and  
16 attorneys in evaluating the applicant's eligibility or  
17 disqualification for licensure; and

18          6. Fingerprint images may be rejected by the OSBI and the FBI  
19 for a variety of reasons, including, but not limited to, fingerprint  
20 quality or an inability by the OSBI or FBI to classify the  
21 fingerprints. These rejections require the applicant to be  
22 fingerprinted again. Applicants with fingerprints rejected for  
23 improper registration will be required to re-register, re-pay and be  
24

1 re-fingerprinted. Applicant is responsible for insuring and  
2 verifying that all data is correct in the fingerprinting process.

3 C. The necessary steps to initiate the criminal background  
4 checks may be performed by the Board or its designated vendor.

5 SECTION 5. This act shall become effective November 1, 2013.

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