

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 54th Legislature (2014)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2791

By: McCullough of the House

and

Sykes of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to professions and occupations;
12 amending 59 O.S. 2011, Section 503, which relates to
13 sanctions for unprofessional conduct by physicians;
14 providing State Board of Medical Licensure and
15 Supervision staff may perform certain investigation
16 and may file certain complaint; amending 59 O.S.
17 2011, Section 504, which relates to citations and
18 subpoenas; permitting secretary of Board to issue
19 certain subpoenas; providing for patient
20 confidentiality and that subpoena compliance not be a
21 violation of certain laws; amending 59 O.S. 2011,
22 Section 512, which relates to certain positions of
23 the State Board of Medical Licensure and Supervision;
24 granting authority to Board investigators to
 investigate and inspect records to determine if
 certain disciplinary action is warranted; and
 providing an effective date.

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

1 SECTION 1. AMENDATORY 59 O.S. 2011, Section 503, is
2 amended to read as follows:

3 Section 503. The State Board of Medical Licensure and
4 Supervision may suspend, revoke or order any other appropriate
5 sanctions against the license of any physician or surgeon holding a
6 license to practice in this state for unprofessional conduct, but no
7 such suspension, revocation or other penalty shall be made until the
8 licensee is cited to appear for hearing. No such citation shall be
9 issued except upon sworn complaint filed with the secretary of the
10 Board, charging the licensee with having been guilty of
11 unprofessional conduct and setting forth the particular act or acts
12 alleged to constitute unprofessional conduct. In the event it comes
13 to the attention of the Board that a violation of the rules of
14 professional conduct may have occurred, even though a formal
15 complaint or charge may not have been filed, the Board staff may
16 conduct an investigation of the possible violation, and may upon its
17 own motion institute a formal complaint. In the course of the
18 investigation persons appearing before the Board may be required to
19 testify under oath. Upon the filing of a complaint, either by an
20 individual or the Board staff as provided herein, the citation must
21 forthwith be issued by the secretary of the Board over the signature
22 of the secretary and seal of the Board, setting forth the complaint
23 of unprofessional conduct, and giving due notice of the time and
24 place of the hearing by the Board. The citation shall be made

1 returnable at the next regular meeting of the Board occurring at
2 least thirty (30) days after the service of the citation. The
3 defendant shall file a written answer under oath with the secretary
4 of the Board within twenty (20) days after the service of the
5 citation. The secretary of the Board may extend the time of answer
6 upon satisfactory showing that the defendant is for reasonable
7 cause, ~~unable~~ to answer within the twenty (20) days, but in no case
8 shall the time be extended beyond the date of the next regular
9 meeting of the Board, unless a continuance is granted by the Board.

10 SECTION 2. AMENDATORY 59 O.S. 2011, Section 504, is
11 amended to read as follows:

12 Section 504. All citations and subpoenas, under the
13 contemplation of this act, shall be served in general accordance
14 with the statutes of the State of Oklahoma then in force applying to
15 the service of such documents, and all provisions of the statutes of
16 the state then in force, relating to citations and subpoenas, are
17 hereby made applicable to the citations and subpoenas herein
18 provided for. The secretary of the State Board of Medical Licensure
19 and Supervision, or the secretary's designee, during the course of
20 an investigation, shall have the power to issue subpoenas for the
21 attendance of witnesses, the inspection of premises and the
22 production of documents or things, including, but not limited to,
23 pharmacy, medical and hospital records. Such subpoenas shall carry
24 the same force and effect as if issued as an order from a district

1 court of competent jurisdiction. Patient confidentiality shall be
2 maintained by the Board and subpoena compliance shall not be
3 considered a violation of any state or federal confidentiality laws.

4 All the provisions of the statutes of the state, then in force,
5 governing the taking of testimony by depositions, are made
6 applicable to the taking of depositions under this act. The
7 attendance of witnesses shall be compelled in such hearings by
8 subpoenas issued by the secretary of the ~~State Board of Medical~~
9 ~~Licensure and Supervision~~ over the seal thereof, and the secretary
10 shall in no case refuse to issue such subpoenas upon praecipe filed
11 therefor accompanied with the fee of Five Dollars (\$5.00) for each
12 subpoena issued. If any person refuse to obey such subpoena served
13 upon him in such manner, the fact of such refusal shall be certified
14 by the secretary of the Board, over the seal thereof, to the
15 district court of the county in which such service was had, and the
16 court shall proceed to hear said matter in accordance with the
17 statutes of the state then in force governing contempt as for
18 disobedience of its own process.

19 SECTION 3. AMENDATORY 59 O.S. 2011, Section 512, is
20 amended to read as follows:

21 Section 512. The secretary of the State Board of Medical
22 Licensure and Supervision shall be paid an annual salary in an
23 amount fixed by the Board. The Board shall have the authority to
24 expend such funds as are necessary in carrying out the duties of the

1 Board and shall have the authority to hire all necessary personnel,
2 at salaries to be fixed by the Board, as the Board shall deem
3 necessary. The Board shall have the authority to hire attorneys to
4 represent the Board in all legal matters and to assist authorized
5 state and county officers in prosecuting or restraining violations
6 of Section 481 et seq. of this title, and to fix the salaries or per
7 diem of said attorneys.

8 The Board shall have the authority to hire one or more
9 investigators as may be necessary to carry out the provisions of
10 this act at an annual salary to be fixed by the Board. Such
11 investigators may be commissioned peace officers of this state. In
12 addition such investigators shall have the authority and duty to
13 investigate and inspect the records of all persons in order to
14 determine whether or not a disciplinary action for unprofessional
15 misconduct is warranted or whether the narcotic laws or the
16 dangerous drug laws have been complied with.

17 The Board is specifically authorized to contract with state
18 agencies or other bodies to perform investigative services at a rate
19 set by the Board.

20 The Board is authorized to pay the travel expenses of Board
21 employees and members in accordance with the State Travel
22 Reimbursement Act.

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1 The expenditures authorized herein shall not be a charge against
2 the state, but the same shall be paid solely from the Board's
3 depository fund.

4 SECTION 4. This act shall become effective November 1, 2014.

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6 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 02/19/2014 -
7 DO PASS, As Amended and Coauthored.
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