

1 STATE OF OKLAHOMA

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

3 SENATE BILL 299

By: McAffrey

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5
6 AS INTRODUCED

7 An Act relating to designation of physicians;
8 amending 59 O.S. 2011, Section 492, which relates to
9 advertising of medical services; and providing an
10 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 the Oklahoma Allopathic Medical and Surgical Licensure and
17 Supervision Act, who shall append to his or her name the letters
18 "M.D.", "Physician" or any other title, letters or designation which
19 represent that such person is a physician, or who shall for a fee or
20 any form of compensation diagnose and/or treat disease, injury or
21 deformity of persons in this state by any allopathic legend drugs,
22 surgery, manual, or mechanical treatment unless otherwise authorized
23 by law.
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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 within or outside of this
11 state, through an ongoing regular arrangement, of
12 diagnostic or treatment services, including but not
13 limited to, stroke prevention and treatment, through
14 electronic communications for any patient whose
15 condition is being diagnosed or treated within this
16 state by a physician duly licensed and practicing in
17 this state. A person who performs any of the
18 functions covered by this subparagraph submits himself
19 or herself to the jurisdiction of the courts of this
20 state for the purposes of any cause of action
21 resulting from the functions performed.

22 c. Nothing in the Oklahoma Allopathic Medical and
23 Surgical Licensure and Supervision Act shall be
24 construed to affect or give jurisdiction to the Board

1 over any person other than medical doctors or persons
2 holding themselves out as medical doctors;

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

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

12 6. Advertising or holding out as a Doctor of Medicine,
13 Physician, or Surgeon who is board certified by the American Board
14 of Medical Specialties or the American Board of Physician
15 Specialties.

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

18 1. A student while engaged in training in a medical school
19 approved by the Board or while engaged in graduate medical training
20 under the supervision of the medical staff of a hospital or other
21 health care facility approved by the state medical board for such
22 training, except that a student engaged in graduate medical training
23 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 2. This act shall become effective November 1, 2013.

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