

1 **SENATE FLOOR VERSION**

2 February 19, 2018

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1353

6 By: Yen

7 An Act relating to provisionally licensed physicians;
8 defining terms; providing for scope of practice;
9 directing the State Board of Medical Licensure and
10 Supervision and the State Board of Osteopathic
11 Examiners to promulgate certain rules; specifying
12 professional terms; requiring collaborative practice
13 arrangement; setting forth provisions related to
14 collaborative practice arrangements; providing
15 certain exemption; specifying criteria to be included
16 in arrangements; providing for promulgation of
17 certain rules and approval of rules; prohibiting
18 certain disciplinary action under certain
19 circumstances; setting certain limitation on
20 arrangements; requiring disclosure of certain
21 information related to arrangements; requiring
22 certain documentation; providing certain
23 construction; requiring identification badges;
24 setting forth provisions related to prescriptive
authority of certain controlled substances; providing
for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 479.1 of Title 59, unless there
is created a duplication in numbering, reads as follows:

As used in this act:

1 1. "Graduate of a school or college of osteopathic medicine"
2 means any person who has graduated from a school or college of
3 osteopathic medicine as defined in this section;

4 2. "Medical school" means a legally chartered allopathic
5 medical school recognized by the Oklahoma State Regents for Higher
6 Education or the Liaison Council on Medical Examination;

7 3. "Medical school graduate" means any person who has graduated
8 from a medical school as defined in this section;

9 4. "Provisionally licensed physician" means a medical school
10 graduate or a graduate of a school or college of osteopathic
11 medicine who:

12 a. is a resident and citizen of the United States or is a
13 legal resident alien,

14 b. (1) has successfully completed Step 1 and Step 2 of
15 the United States Medical Licensing Examination
16 or the equivalent of such steps of any other
17 medical licensing examination approved by the
18 Board of Medical Licensure and Supervision within
19 the two-year period immediately preceding
20 application for licensure as a provisionally
21 licensed physician, but in no event more than
22 three (3) years after graduation from a medical
23 school, or

24

1 (2) has successfully completed Level 1 and Level 2 of
2 the Comprehensive Osteopathic Medical Licensing
3 Examination of the United States or the
4 equivalent of such steps of any other medical
5 licensing examination approved by the State Board
6 of Osteopathic Examiners within the two-year
7 period immediately preceding application for
8 licensure as a provisionally licensed physician,
9 but in no event more than three (3) years after
10 graduation from a school or college of
11 osteopathic medicine,

12 c. (1) has not completed an approved postgraduate
13 residency and has successfully completed Step 2
14 of the United States Medical Licensing
15 Examination or the equivalent of such step of any
16 other medical licensing examination approved by
17 the Board of Medical Licensure and Supervision
18 within the immediately preceding two-year period
19 unless when such two-year anniversary occurred he
20 or she was serving as a resident physician in an
21 accredited residency in the United States and
22 continued to do so within thirty (30) calendar
23 days prior to application for licensure as a
24 provisionally licensed physician, or

1 (2) has not completed an approved postgraduate
2 residency and has successfully completed Level 2
3 of the Comprehensive Osteopathic Medical
4 Licensing Examination of the United States or the
5 equivalent of such step of any other medical
6 licensing examination approved by the State Board
7 of Osteopathic Examiners within the immediately
8 preceding two-year period unless when such two-
9 year anniversary occurred he or she was serving
10 as a resident physician in an accredited
11 residency in the United States and continued to
12 do so within thirty (30) calendar days prior to
13 application for licensure as a provisionally
14 licensed physician, and

15 d. has proficiency in the English language;

16 5. "Provisionally licensed physician collaborative practice
17 arrangement" means an agreement between a physician and a
18 provisionally licensed physician that meets the requirements of this
19 act; and

20 6. "School or college of osteopathic medicine" means a legally
21 chartered and accredited school or college of osteopathic medicine
22 requiring:

23 a. for admission to its courses of study, a preliminary
24 education equal to the requirements established by the

1 Bureau of Professional Education of the American
2 Osteopathic Association, and

- 3 b. for granting the D.O. degree, Doctor of Osteopathy or
4 Doctor of Osteopathic Medicine, actual attendance at
5 such osteopathic school or college and demonstration
6 of successful completion of the curriculum and
7 recommendation for graduation.

8 SECTION 2. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 479.2 of Title 59, unless there
10 is created a duplication in numbering, reads as follows:

11 A. A provisionally licensed physician collaborative practice
12 arrangement shall limit the provisionally licensed physician to
13 providing only primary care services.

14 B. The licensure of provisionally licensed physicians shall
15 take place within processes established by rules of the Board of
16 Medical Licensure and Supervision or of the State Board of
17 Osteopathic Examiners, as appropriate. The Board of Medical
18 Licensure and Supervision and the State Board of Osteopathic
19 Examiners shall promulgate rules establishing licensure and renewal
20 procedures, supervision, collaborative practice arrangements, fees
21 and addressing such other matters as are necessary to protect the
22 public and discipline the profession. An application for licensure
23 may be denied or the licensure of a provisionally licensed physician
24 may be suspended or revoked by the Board of Medical Licensure and

1 Supervision or by the State Board of Osteopathic Examiners, as
2 appropriate, in the same manner and for violation of the standards
3 as set forth by the Oklahoma Allopathic Medical and Surgical
4 Licensure and Supervision Act or the Oklahoma Osteopathic Medicine
5 Act, or such other standards of conduct set by the Board of Medical
6 Licensure and Supervision or the State Board of Osteopathic
7 Examiners, as appropriate, by rule.

8 C. A provisionally licensed physician shall clearly identify
9 himself or herself as a provisionally licensed physician and shall
10 be permitted to use the terms "doctor", "Dr.", or "doc". No
11 provisionally licensed physician shall practice or attempt to
12 practice without a provisionally licensed physician collaborative
13 practice arrangement, except as otherwise provided in this section
14 and in an emergency situation.

15 D. The collaborating physician is responsible at all times for
16 the oversight of the activities of and accepts responsibility for
17 primary care services rendered by the provisionally licensed
18 physician.

19 E. The provisions of Section 3 of this act shall apply to all
20 provisionally licensed physician collaborative practice
21 arrangements. To be eligible to practice as a provisionally
22 licensed physician, a provisionally licensed physician shall enter
23 into a provisionally licensed physician collaborative practice
24 arrangement within six (6) months of his or her initial licensure

1 and shall not have more than a six-month time period between
2 collaborative practice arrangements during his or her licensure
3 period. Any renewal of licensure pursuant to this section shall
4 include verification of actual practice under a collaborative
5 practice arrangement in accordance with this subsection during the
6 immediately preceding licensure period.

7 F. For a physician-provisionally licensed physician team
8 working in a rural health clinic under the federal Rural Health
9 Clinic Services Act, P.L. 95-210:

10 1. A provisionally licensed physician shall be considered a
11 physician assistant for purposes of regulations of the Centers for
12 Medicare and Medicaid Services (CMS); and

13 2. No supervision requirements in addition to the minimum
14 federal law shall be required.

15 SECTION 3. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 479.3 of Title 59, unless there
17 is created a duplication in numbering, reads as follows:

18 A. A physician may enter into collaborative practice
19 arrangements with provisionally licensed physicians. Collaborative
20 practice arrangements shall be in the form of written agreements,
21 jointly agreed-upon protocols or standing orders for the delivery of
22 health care services. Collaborative practice arrangements, which
23 shall be in writing, may delegate to a provisionally licensed
24 physician the authority to administer and dispense drugs and provide

1 treatment as long as the delivery of such health care services is
2 within the scope of practice of the provisionally licensed physician
3 and is consistent with that provisionally licensed physician's
4 skill, training and competence and the skill and training of the
5 collaborating physician.

6 B. The written collaborative practice arrangement shall
7 include, but not be limited to:

8 1. Complete names, home and business addresses, zip codes and
9 telephone numbers of the collaborating physician and the
10 provisionally licensed physician;

11 2. A list of all other offices or locations besides those
12 listed in paragraph 1 of this subsection where the collaborating
13 physician authorized the provisionally licensed physician to
14 prescribe;

15 3. A requirement that there shall be posted at every office
16 where the provisionally licensed physician is authorized to
17 prescribe, in collaboration with a physician, a prominently
18 displayed disclosure statement informing patients that they may be
19 seen by a provisionally licensed physician and have the right to see
20 the collaborating physician;

21 4. All specialty or Board certifications of the collaborating
22 physician and all certifications of the provisionally licensed
23 physician;

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1 5. The manner of collaboration between the collaborating
2 physician and the provisionally licensed physician, including how
3 the collaborating physician and the provisionally licensed physician
4 shall:

5 a. engage in collaborative practice consistent with each
6 professional's skill, training, education and
7 competence,

8 b. maintain geographic proximity; provided, the
9 collaborative practice arrangement may allow for
10 geographic proximity to be waived for a maximum of
11 twenty-eight (28) calendar days per calendar year for
12 rural health clinics as defined by P.L. 95-210, as
13 long as the collaborative practice arrangement
14 includes alternative plans as required in subparagraph
15 c of this paragraph. Such exception to geographic
16 proximity shall apply only to independent rural health
17 clinics, provider-based rural health clinics if the
18 provider is a critical access hospital as provided in
19 42 U.S.C. Section 1395i-4 and provider-based rural
20 health clinics if the main location of the hospital
21 sponsor is not less than fifty (50) miles from the
22 clinic. The collaborating physician shall maintain
23 documentation related to such requirement and present
24 it to the Board of Medical Licensure and Supervision

1 or the State Board of Osteopathic Examiners, as
2 appropriate, when requested, and

3 c. provide coverage during absence, incapacity, infirmity
4 or emergency by the collaborating physician;

5 6. A description of the provisionally licensed physician's
6 controlled substance prescriptive authority in collaboration with
7 the physician, including a list of the controlled substances the
8 physician authorizes the provisionally licensed physician to
9 prescribe and documentation that it is consistent with each
10 professional's education, knowledge, skill and competence;

11 7. A list of all other written practice agreements of the
12 collaborating physician and the provisionally licensed physician;

13 8. The duration of the written practice agreement between the
14 collaborating physician and the provisionally licensed physician;

15 9. A description of the time and manner of the collaborating
16 physician's review of the provisionally licensed physician's
17 delivery of health care services. The description shall include
18 provisions that the provisionally licensed physician shall submit a
19 minimum of ten percent (10%) of the charts documenting the
20 provisionally licensed physician's delivery of health care services
21 to the collaborating physician for review by the collaborating
22 physician, or any other physician designated in the collaborative
23 practice arrangement, every fourteen (14) calendar days; and

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1 10. A requirement that the collaborating physician, or any
2 other physician designated in the collaborative practice
3 arrangement, shall review every fourteen (14) calendar days a
4 minimum of twenty percent (20%) of the charts in which the
5 provisionally licensed physician prescribes controlled substances.
6 The charts reviewed pursuant to this paragraph may be counted in the
7 number of charts required to be reviewed under paragraph 9 of this
8 subsection.

9 C. The Board of Medical Licensure and Supervision and the State
10 Board of Osteopathic Examiners shall promulgate rules regulating the
11 use of collaborative practice arrangements for provisionally
12 licensed physicians. Such rules shall specify:

13 1. Geographic areas to be covered;

14 2. The methods of treatment that may be covered by
15 collaborative practice arrangements;

16 3. In conjunction with deans of medical schools and primary
17 care residency program directors in the state, the development and
18 implementation of educational methods and programs undertaken during
19 the collaborative practice service which shall facilitate the
20 advancement of the provisionally licensed physician's medical
21 knowledge and capabilities, and which may lead to credit toward a
22 future residency program for programs that deem such documented
23 educational achievements acceptable; and

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1 4. The requirements for review of services provided under
2 collaborative practice arrangements, including delegating authority
3 to prescribe controlled substances.

4 D. Any rules relating to dispensing or distribution of
5 medications or devices by prescription or prescription drug orders
6 pursuant to this section shall be subject to the approval of the
7 State Board of Pharmacy. Any rules relating to dispensing or
8 distribution of controlled substances by prescription or
9 prescription drug orders pursuant to this section shall be subject
10 to the approval of the State Department of Health and the State
11 Board of Pharmacy. The Board of Medical Licensure and Supervision
12 and the State Board of Osteopathic Examiners shall promulgate rules
13 applicable to provisionally licensed physicians that shall be
14 consistent with guidelines for federally funded clinics.

15 E. The Board of Medical Licensure and Supervision and the State
16 Board of Osteopathic Examiners shall not deny, revoke, suspend or
17 otherwise take disciplinary action against a collaborating physician
18 for health care services delegated to a provisionally licensed
19 physician, provided the provisions of this section and the rules
20 promulgated thereunder are satisfied.

21 F. Within thirty (30) calendar days of any change and on each
22 renewal, the Board of Medical Licensure and Supervision or the State
23 Board of Osteopathic Examiners, as appropriate, shall require every
24 physician to identify whether the physician is engaged in any

1 collaborative practice arrangement, including but not limited to
2 collaborative practice arrangements delegating the authority to
3 prescribe controlled substances, and also report to the Board of
4 Medical Licensure and Supervision or the State Board of Osteopathic
5 Examiners, as appropriate, the name of each provisionally licensed
6 physician with whom the physician has entered into such arrangement.
7 The Board of Medical Licensure and Supervision and the State Board
8 of Osteopathic Examiners may make such information available to the
9 public. The Board of Medical Licensure and Supervision and the
10 State Board of Osteopathic Examiners shall track the reported
11 information and may routinely conduct random reviews of such
12 arrangements to ensure that arrangements are carried out for
13 compliance pursuant to this section.

14 G. A collaborating physician shall not enter into a
15 collaborative practice arrangement with more than three full-time
16 equivalent provisionally licensed physicians.

17 H. The collaborating physician shall determine and document the
18 completion of at least a thirty-calendar-day period of time during
19 which the provisionally licensed physician shall practice with the
20 collaborating physician continuously present before practicing in a
21 setting where the collaborating physician is not continuously
22 present.

23 I. No agreement made pursuant to this section shall supersede
24 current hospital licensing regulations governing hospital medication

1 orders under protocols or standing orders for the purpose of
2 delivering inpatient or emergency care within a hospital as defined
3 in Section 1-701 of Title 63 of the Oklahoma Statutes if such
4 protocols or standing orders have been approved by the hospital's
5 medical staff and pharmaceutical therapeutics committee.

6 J. No contract or other agreement shall require a physician to
7 act as a collaborating physician for a provisionally licensed
8 physician against the physician's will. A physician shall have the
9 right to refuse to act as a collaborating physician, without
10 penalty, for a particular provisionally licensed physician. No
11 contract or other agreement shall limit the collaborating
12 physician's ultimate authority over any protocols or standing orders
13 or in the delegation of the physician's authority to any
14 provisionally licensed physician, but such requirement shall not
15 authorize a physician in implementing such protocols, standing
16 orders, or delegation to violate applicable standards for safe
17 medical practice established by a hospital's medical staff.

18 K. No contract or other agreement shall require any
19 provisionally licensed physician to serve as a collaborating
20 provisionally licensed physician for any collaborating physician
21 against the provisionally licensed physician's will. A
22 provisionally licensed physician shall have the right to refuse to
23 collaborate, without penalty, with a particular physician.

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1 L. All collaborating physicians and provisionally licensed
2 physicians in collaborative practice arrangements shall wear
3 identification badges while acting within the scope of their
4 collaborative practice arrangement. The identification badges shall
5 prominently display the licensure status of such collaborating
6 physicians and provisionally licensed physicians.

7 M. 1. A provisionally licensed physician with a certificate of
8 controlled substance prescriptive authority as provided in this
9 section may prescribe any controlled substance listed in Schedule
10 III, IV or V of the Uniform Controlled Dangerous Substances Act, and
11 may have restricted authority in Schedule II, when delegated the
12 authority to prescribe controlled substances in a collaborative
13 practice arrangement. Prescriptions for Schedule II medications
14 prescribed by a provisionally licensed physician who has a
15 certificate of controlled substance prescriptive authority are
16 restricted to only those medications containing hydrocodone. Such
17 authority shall be filed with the Board of Medical Licensure and
18 Supervision or the State Board of Osteopathic Examiners, as
19 appropriate. The collaborating physician shall maintain the right
20 to limit a specific scheduled drug or scheduled drug category that
21 the provisionally licensed physician is permitted to prescribe. Any
22 limitations shall be listed in the collaborative practice
23 arrangement. Provisionally licensed physicians shall not prescribe
24 controlled substances for themselves or members of their families.

1 Schedule III controlled substances and Schedule II hydrocodone
2 prescriptions shall be limited to a five-day supply without refill.
3 Provisionally licensed physicians who are authorized to prescribe
4 controlled substances under this section shall register with the
5 federal Drug Enforcement Administration and the Oklahoma Bureau of
6 Narcotics and Dangerous Drugs, and shall include the Drug
7 Enforcement Administration registration number on prescriptions for
8 controlled substances.

9 2. The collaborating physician shall be responsible to
10 determine and document the completion of at least one hundred twenty
11 (120) hours in a four-calendar-month period by the provisionally
12 licensed physician during which the provisionally licensed physician
13 shall practice with the collaborating physician on-site prior to
14 prescribing controlled substances when the collaborating physician
15 is not on-site.

16 3. A provisionally licensed physician shall receive a
17 certificate of controlled substance prescriptive authority from the
18 Board of Medical Licensure and Supervision or the State Board of
19 Osteopathic Examiners, as appropriate, upon verification of
20 licensure pursuant to Section 2 of this act.

21 SECTION 4. This act shall become effective November 1, 2018.

22 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
23 February 19, 2018 - DO PASS AS AMENDED
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