

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 718

By: McCortney

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5  
6 AS INTRODUCED

7 An Act relating to allopathic medicine; amending 59  
8 O.S. 2011, Section 492, as amended by Section 1,  
9 Chapter 40, O.S.L. 2016 (59 O.S. Supp. 2020, Section  
10 492), which relates to definition of the practice of  
11 medicine; adding certain exclusion; and providing an  
12 effective date.

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

14 SECTION 1. AMENDATORY 59 O.S. 2011, Section 492, as  
15 amended by Section 1, Chapter 40, O.S.L. 2016 (59 O.S. Supp. 2020,  
16 Section 492), is amended to read as follows:

17 Section 492. A. Every person shall be regarded as practicing  
18 allopathic medicine within the meaning and provisions of ~~this act~~  
19 the Oklahoma Allopathic Medical and Surgical Licensure and  
20 Supervision Act, who shall append to his or her name the letters  
21 "M.D.", "Physician" or any other title, letters or designation which  
22 represent that such person is a physician, or who shall for a fee or  
23 any form of compensation diagnose and/or treat disease, injury or  
24 deformity of persons in this state by any allopathic legend drugs,

1 surgery, manual, or mechanical treatment unless otherwise authorized  
2 by law.

3 B. A hospital or related institution as such terms are defined  
4 in Section 1-701 of Title 63 of the Oklahoma Statutes, which has the  
5 principal purpose or function of providing hospital or medical care,  
6 including but not limited to any corporation, association, trust, or  
7 other organization organized and operated for such purpose, may  
8 employ one or more persons who are duly licensed to practice  
9 medicine in this state without being regarded as itself practicing  
10 medicine within the meaning and provisions of this section. The  
11 employment by the hospital or related institution of any person who  
12 is duly licensed to practice medicine in this state shall not, in  
13 and of itself, be considered as an act of unprofessional conduct by  
14 the person so employed. Nothing provided herein shall eliminate,  
15 limit, or restrict the liability for any act or failure to act of  
16 any hospital, any hospital's employees, or persons duly licensed to  
17 practice medicine.

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

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

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

4           3.    a.    any offer or attempt, except as otherwise authorized  
5                    by law, to prevent, diagnose, correct, or treat in any  
6                    manner or by any means, methods, devices, or  
7                    instrumentalities except for manual manipulation any  
8                    disease, illness, pain, wound, fracture, infirmity,  
9                    defect, or abnormal physical or mental condition of  
10                   any person, including the management of pregnancy and  
11                   parturition, except as otherwise authorized by law,

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

1 c. nothing in the Oklahoma Allopathic Medical and  
2 Surgical Licensure and Supervision Act shall be  
3 construed to affect or give jurisdiction to the Board  
4 over any person other than medical doctors or persons  
5 holding themselves out as medical doctors;

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

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

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

17 1. A student while engaged in training in a medical school  
18 approved by the Board or while engaged in graduate medical training  
19 under the supervision of the medical staff of a hospital or other  
20 health care facility approved by the state medical board for such  
21 training, except that a student engaged in graduate medical training  
22 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  
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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. Any person who is licensed to practice medicine and surgery  
10 in another state or territory of the United States who engages in  
11 consultation through telehealth with a patient physically located in  
12 this state for the sole purpose of providing an expert second  
13 opinion; or

14 10. The practice of any other person as licensed by appropriate  
15 agencies of this state, provided that such duties are consistent  
16 with the accepted standards of the person's profession and the  
17 person does not represent himself or herself as a Doctor of  
18 Medicine, Physician, Surgeon, Physician and Surgeon, Dr., M.D., or  
19 any combination thereof.

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

22 1. The service rendered by a physician's unlicensed trained  
23 assistant, if such service is rendered under the supervision and  
24 control of a licensed physician pursuant to Board rules, provided

1 such rules are not in conflict with the provisions of any other  
2 healing arts licensure act or rules promulgated pursuant to such  
3 act; or

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

6 F. Nothing in the Oklahoma Allopathic Medical and Surgical  
7 Licensure and Supervision Act shall prohibit services rendered by  
8 any person not licensed by the Board and practicing any  
9 nonallopathic healing practice.

10 G. Nothing in the Oklahoma Allopathic Medical and Surgical  
11 Licensure and Supervision Act shall be construed as to require a  
12 physician to secure a Maintenance of Certification (MOC) as a  
13 condition of licensure, reimbursement, employment or admitting  
14 privileges at a hospital in this state. For the purposes of this  
15 subsection, "Maintenance of Certification (MOC)" shall mean a  
16 continuing education program measuring core competencies in the  
17 practice of medicine and surgery and approved by a nationally-  
18 recognized accrediting organization.

19 SECTION 2. This act shall become effective November 1, 2021.  
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