

**COMMITTEE AMENDMENT**

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1281 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by  
inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Amendment submitted by: Mike Ritze

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

PROPOSED  
COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL NO. 1281

By: McCortney of the Senate

and

Ritze of the House

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to professions and occupations;  
amending 59 O.S. 2011, Section 487, which relates to  
secretary; authorizing State Board of Medical  
Licensure and Supervision to hire physician as  
Medical Advisor; amending 59 O.S. 2011, Section 488,  
which relates to meetings of Board; modifying  
terminology; making language gender-neutral; making  
certain meetings not required; amending 59 O.S. 2011,  
Section 495a.1, which relates to license  
registration; directing Board to promulgate certain  
rules; setting certain fine; amending 59 O.S. 2011,  
Section 503, as amended by Section 1, Chapter 176,  
O.S.L 2014 (59 O.S. Supp. 2017, Section 503), which  
relates to sanctions for unprofessional conduct;  
modifying procedure pursuant to sanctions; amending  
59 O.S. 2011, Section 503.1, which relates to  
emergency suspension of licensure; modifying  
conditions under which Board may suspend license;  
amending 59 O.S. 2011, Section 508, which relates to  
revocation of licensure; modifying conditions under  
which Board may issue certain fine and require  
applicant to take certain action; amending 59 O.S.  
2011, Section 509, which relates to unprofessional  
conduct; modifying certain definition; amending 59  
O.S. 2011, Section 512, as amended by Section 3,  
Chapter 176, O.S.L. 2014 (59 O.S. Supp. 2017, Section  
512), which relates to salary of secretary; making

1        investigative records, interviews and reports  
2        confidential; requiring certain investigators to be  
3        certified peace officers; requiring investigators to  
4        perform certain duties; requiring licensees to  
5        cooperate with investigators; broadening services the  
6        Board may contract to perform; amending 59 O.S. 2011,  
7        Section 513, which relates to quasi-judicial powers  
8        of Board; modifying conditions under which the Board  
9        shall revoke a license; amending 59 O.S. 2011,  
10       Section 518.1, which relates to Allied Professional  
11       Peer Assistance Program; authorizing Board to employ  
12       director, fix salary and define duties of director;  
13       authorizing program to contract with outside entities  
14       for certain services; requiring contracts to be  
15       ratified by Board; authorizing the Board to  
16       promulgate certain rules; specifying certain contents  
17       for rules; amending 74 O.S. 2011, Section 18c, as  
18       last amended by Section 1, Chapter 31, O.S.L. 2016  
19       (74 O.S. Supp. 2017, Section 18c), which relates to  
20       employment of attorneys; providing certain exemption;  
21       providing for codification; and providing an  
22       effective date.

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

24       SECTION 1.        AMENDATORY        59 O.S. 2011, Section 487, is  
25       amended to read as follows:

26       Section 487.    A.    The State Board of Medical Licensure and  
27       Supervision may appoint the secretary to serve as Medical Advisor or  
28       hire a physician as Medical Advisor to the Board and the Board  
29       staff.    The Board may hire the secretary as an employee of the Board  
30       at such hours of employment and compensation as determined by the  
31       Board.    The Board may hire a licensed allopathic physician to serve  
32       as the secretary- or medical advisor, or both, to the Board and its  
33       staff.    This position shall be in the exempt unclassified service,

1 as provided for in subsection B of Section 840-5.5 of Title 74 of  
2 the Oklahoma Statutes. The secretary shall not be a member of the  
3 Board and shall not vote on Board actions.

4 B. The secretary of the Board shall preserve a true record of  
5 the official proceedings of the meetings of the Board. He or she  
6 shall also preserve a record of physicians licensed, applying for  
7 such license or applying for reinstatement of such license in this  
8 state showing:

9 1. Age;

10 2. Ethnic origin;

11 3. Sex;

12 4. Place of practice and residence;

13 5. The time spent in premedical and medical study, together  
14 with the names of the schools attended, and the date of graduation  
15 therefrom, with the degrees granted;

16 6. The grades made in examination for license or grades filed  
17 in application therefor; and

18 7. A record of the final disposition of each application for  
19 licensure.

20 The secretary of the Board shall, on or before the first day of  
21 May in each year, transmit an official copy of said register for the  
22 preceding calendar year, to the Secretary of State for permanent  
23 record, a certified copy of which shall be admitted as evidence in  
24 all courts of the state.

1       SECTION 2.       AMENDATORY       59 O.S. 2011, Section 488, is  
2 amended to read as follows:

3       Section 488. A. The Board may hold regular meetings at times  
4 to be fixed by the president and secretary of the Board in  
5 accordance with the provisions of the Oklahoma Open Meeting Act. In  
6 addition, the president and secretary may call such special and  
7 other meetings in accordance with the provisions of the Oklahoma  
8 Open Meeting Act. A majority of the members of the Board shall  
9 constitute a quorum for the transaction of business but a less  
10 number may adjourn from time to time until a quorum is present.

11       B. No meeting as provided for in subsection A of this section  
12 shall be required for the determination of the qualifications of an  
13 applicant for a ~~certificate~~ license issued pursuant to the  
14 provisions of Section 495 of this title. Each member of the Board  
15 authorized to vote on licensure may review the qualifications of the  
16 applicant during times other than when a regular or special meeting  
17 is held, to determine the sufficiency of said qualifications. Each  
18 member shall notify the secretary of his or her findings, in  
19 writing. The provisions of this subsection shall not be construed  
20 to prohibit the Board from reviewing the qualifications of an  
21 applicant for licensure during any regular or special meeting of the  
22 Board.

23       C. No meeting of an Advisory Committee under the jurisdiction  
24 of the Board under this title shall be required for the

1 determination of the qualifications of an applicant for a license.  
2 Each member of the Advisory Committee authorized to make  
3 recommendations on licensure may review the qualifications of the  
4 applicant during times other than when a regular or special Advisory  
5 Committee meeting is held, to determine the sufficiency of the  
6 qualifications. Each member of the Advisory Committee shall notify  
7 the Board Secretary of his or her recommendations, in writing. The  
8 provisions of this subsection shall not be construed to prohibit the  
9 Advisory Committee from reviewing the qualifications of an applicant  
10 for licensure during any regular or special meeting of the Advisory  
11 Committee.

12 SECTION 3. AMENDATORY 59 O.S. 2011, Section 495a.1, is  
13 amended to read as follows:

14 Section 495a.1 A. At regular intervals set by the Board, no  
15 less than one time per annum, each licensee licensed by this act  
16 shall demonstrate to the Board the licensee's continuing  
17 qualification to practice medicine and surgery. The licensee shall  
18 apply for license reregistration on a form(s) provided by the Board,  
19 which shall be designed to require the licensee to update and/or add  
20 to the information in the Board's file relating to the licensee and  
21 his or her professional activity. It shall also require the  
22 licensee to report to the Board the following information:  
23  
24

1        1. Any action taken against the licensee for acts or conduct  
2 similar to acts or conduct described in this act as grounds for  
3 disciplinary action by:

- 4            a. any jurisdiction or authority (United States or  
5                        foreign) that licenses or authorizes the practice of  
6                        medicine and surgery,
- 7            b. any peer review body,
- 8            c. any health care institution,
- 9            d. any professional medical society or association,
- 10           e. any law enforcement agency,
- 11           f. any court, or
- 12           g. any governmental agency;

13        2. Any adverse judgment, settlement, or award against the  
14 licensee arising from a professional liability claim;

15        3. The licensee's voluntary surrender of or voluntary  
16 limitation on any license or authorization to practice medicine and  
17 surgery in any jurisdiction, including military, public health and  
18 foreign;

19        4. Any denial to the licensee of a license or authorization to  
20 practice medicine and surgery by any jurisdiction, including  
21 military, public health or foreign;

22        5. The licensee's voluntary resignation from the medical staff  
23 of any health care institution or voluntary limitation of the  
24 licensee's staff privileges at such an institution if that action

1 occurred while the licensee was under formal or informal  
2 investigation by the institution or a committee thereof for any  
3 reason related to alleged medical incompetence, unprofessional  
4 conduct, or mental or physical impairment;

5 6. The licensee's voluntary resignation or withdrawal from a  
6 national, state, or county medical society, association, or  
7 organization if that action occurred while the licensee was under  
8 formal or informal investigation or review by that body for any  
9 reason related to possible medical incompetence, unprofessional or  
10 unethical conduct, or mental or physical impairment;

11 7. Whether the licensee has abused or has been addicted to or  
12 treated for addiction to alcohol or any chemical substance during  
13 the previous registration period, unless such person is in a  
14 rehabilitation program approved by the Board;

15 8. Whether the licensee has had any physical injury or disease  
16 or mental illness during the previous registration period that  
17 affected or interrupted his or her practice of medicine and surgery;  
18 and

19 9. The licensee's completion of continuing medical education or  
20 other forms of professional maintenance and/or evaluation, including  
21 specialty board certification or recertification, during the  
22 previous registration period.

23 B. The Board may require continuing medical education for  
24 license reregistration and require documentation of that education.



1 The Board shall promulgate rules on the specific requirements of the  
2 amount of continuing medical education needed for reregistration.  
3 Failure to meet the requirements in the allotted time may result in  
4 the licensee being required to pay a nondisciplinary fine by the  
5 Board Secretary of up to but not more than One Thousand Dollars  
6 (\$1,000.00).

7 C. The licensee shall sign and attest to the veracity of the  
8 application form for license reregistration. Failure to report  
9 fully and correctly shall be grounds for disciplinary action by the  
10 Board.

11 D. The Board shall establish a system for reviewing  
12 reregistration forms. The Board may initiate investigations and  
13 disciplinary proceedings based on information submitted by licensees  
14 for license reregistration.

15 E. Upon a finding by the Board that the licensee is fit to  
16 continue to practice medicine and surgery in this state, the Board  
17 shall issue to the licensee a license to practice medicine and  
18 surgery during the next registration period.

19 SECTION 4. AMENDATORY 59 O.S. 2011, Section 503, as  
20 amended by Section 1, Chapter 176, O.S.L. 2014 (59 O.S. Supp. 2017,  
21 Section 503), is amended to read as follows:

22 Section 503. The State Board of Medical Licensure and  
23 Supervision may suspend, revoke or order any other appropriate  
24 sanctions against the license of any physician or surgeon holding a

1 license to practice in this state for unprofessional conduct, but no  
2 such suspension, revocation or other penalty shall be made until the  
3 licensee is cited to appear for hearing. No such citation shall be  
4 issued except upon sworn complaint filed with the secretary of the  
5 Board charging the licensee with having been guilty of  
6 unprofessional conduct and setting forth the particular act or acts  
7 alleged to constitute unprofessional conduct. In the event it comes  
8 to the attention of the Board that a violation of the rules of  
9 professional conduct may have occurred, even though a formal  
10 complaint or charge may not have been filed, the Board staff may  
11 conduct an investigation of the possible violation, and may upon its  
12 own motion institute a formal complaint. In the course of the  
13 investigation persons appearing before the Board may be required to  
14 testify under oath. Upon the filing of a complaint, either by an  
15 individual or the Board staff as provided herein, the citation must  
16 forthwith be issued by the secretary of the Board over the signature  
17 of the secretary and seal of the Board, setting forth the complaint  
18 of unprofessional conduct, and giving due notice of the time and  
19 place of the hearing by the Board. ~~The citation shall be made~~  
20 ~~returnable at the next regular meeting of the Board occurring at~~  
21 ~~least thirty (30) days after the service of the citation. In any~~  
22 case in which a physician disputes allegations made in a complaint,  
23 the matter shall be set and heard by the Board at the next regular  
24 meeting of the Board occurring at least thirty (30) calendar days

1 after the day of service of the citation, exclusive of the day of  
2 service, but will be heard not later than the next regular meeting  
3 of the Board occurring after ninety (90) calendar days after service  
4 of the citation, exclusive of the day of service. No continuance  
5 may be granted by the Board on its own motion or at the request of  
6 the defendant or his counsel or at the request of the attorney for  
7 the state, unless the record of the case, either orally or in  
8 writing, sets forth a finding that the ends of justice served by the  
9 granting of such continuance outweigh the best interest of the  
10 public and the defendant in a speedy hearing. The defendant shall  
11 file a written answer under oath with the secretary of the Board  
12 within twenty (20) calendar days after the service of the citation,  
13 exclusive of the day of service. The secretary of the Board may  
14 extend the time of answer upon satisfactory showing that the  
15 defendant is for reasonable cause unable to answer within the twenty  
16 (20) calendar days exclusive of the day of service, but in no case  
17 shall the time be extended beyond the date of the next regular  
18 meeting of the Board, unless a continuance is granted by the Board.

19 SECTION 5. AMENDATORY 59 O.S. 2011, Section 503.1, is  
20 amended to read as follows:

21 Section 503.1 The Secretary of the Board, upon concurrence of  
22 the President of the Board that an emergency exists for which the  
23 immediate suspension of a license is imperative for the public  
24 health, safety and welfare, may conduct a hearing as contemplated by

1 Section 314 of Title 75 of the Oklahoma Statutes ~~to~~ and may, upon  
2 probable cause, suspend temporarily the license of any person under  
3 the jurisdiction of the Board.

4 SECTION 6. AMENDATORY 59 O.S. 2011, Section 508, is  
5 amended to read as follows:

6 Section 508. A. Whenever any license has been procured or  
7 obtained by fraud or misrepresentation on the licensure application,  
8 or was issued by mistake; or if the diploma of graduation in  
9 medicine and surgery or any other credentials required as necessary  
10 to the admission to the examination for license were obtained by  
11 fraud or misrepresentation on the licensure application, or were  
12 issued by mistake; or if the reciprocity endorsement from another  
13 state, upon which a license has been issued in this state, was  
14 procured by fraud or misrepresentation, or was issued by mistake, it  
15 shall be the duty of the State Board of Medical Licensure and  
16 Supervision to take appropriate disciplinary action in the same  
17 manner as is provided by the Oklahoma Allopathic Medical and  
18 Surgical Licensure and Supervision Act for the disciplining of  
19 unprofessional conduct or in cases of unintentional  
20 misrepresentation of information on the licensure application the  
21 State Board of Medical Licensure and Supervision delegates to the  
22 Board Secretary the ability to issue a nondisciplinary  
23 administrative fine of up to, but not more than, One Thousand  
24 Dollars (\$1,000.00) per licensure applicant or to require a

1 continuing medical education course in ethics, or to take both  
2 actions, to impress upon the applicant the seriousness of completing  
3 the application truthfully.

4 B. Use of fraudulent information to obtain a license shall be a  
5 misdemeanor offense, punishable, upon conviction, by the imposition  
6 of a fine of not less than One Thousand Dollars (\$1,000.00), or by  
7 imprisonment in the county jail for not more than one (1) year, or  
8 by both such fine and imprisonment.

9 SECTION 7. AMENDATORY 59 O.S. 2011, Section 509, is  
10 amended to read as follows:

11 Section 509. The words "unprofessional conduct" as used in  
12 Sections 481 through 514 of this title are hereby declared to  
13 include, but shall not be limited to, the following:

- 14 1. Procuring, aiding or abetting a criminal operation;
- 15 2. The obtaining of any fee or offering to accept any fee,  
16 present or other form of remuneration whatsoever, on the assurance  
17 or promise that a manifestly incurable disease can or will be cured;
- 18 3. Willfully betraying a professional secret to the detriment  
19 of the patient;
- 20 4. Habitual intemperance or the habitual use of habit-forming  
21 drugs;
- 22 5. Conviction or confession of, or plea of guilty, nolo  
23 contendere, no contest or Alford plea to a felony or of any offense  
24 involving moral turpitude;

1       6. All advertising of medical business in which statements are  
2 made which are grossly untrue or improbable and calculated to  
3 mislead the public;

4       7. Conviction or confession of, or plea of guilty, nolo  
5 contendere, no contest or Alford plea to a crime involving violation  
6 of:

7           a. the antinarcotic or prohibition laws and regulations  
8 of the federal government,

9           b. the laws of this state, ~~or~~

10          c. State Board of Health rules, or

11          d. a determination by a judge or jury;

12       8. Dishonorable or immoral conduct which is likely to deceive,  
13 defraud, or harm the public;

14       9. The commission of any act which is a violation of the  
15 criminal laws of any state when such act is connected with the  
16 physician's practice of medicine. A complaint, indictment or  
17 confession of a criminal violation shall not be necessary for the  
18 enforcement of this provision. Proof of the commission of the act  
19 while in the practice of medicine or under the guise of the practice  
20 of medicine shall be unprofessional conduct;

21       10. Failure to keep complete and accurate records of purchase  
22 and disposal of controlled drugs or of narcotic drugs;

1        11. The writing of false or fictitious prescriptions for any  
2 drugs or narcotics declared by the laws of this state to be  
3 controlled or narcotic drugs;

4        12. Prescribing or administering a drug or treatment without  
5 sufficient examination and the establishment of a valid physician-  
6 patient relationship and not prescribing in a safe medically  
7 accepted manner;

8        13. The violation, or attempted violation, direct or indirect,  
9 of any of the provisions of the Oklahoma Allopathic Medical and  
10 Surgical Licensure and Supervision Act, either as a principal,  
11 accessory or accomplice;

12       14. Aiding or abetting, directly or indirectly, the practice of  
13 medicine by any person not duly authorized under the laws of this  
14 state;

15       15. The inability to practice medicine with reasonable skill  
16 and safety to patients by reason of age, illness, drunkenness,  
17 excessive use of drugs, narcotics, chemicals, or any other type of  
18 material or as a result of any mental or physical condition. In  
19 enforcing this ~~subsection~~ section the State Board of Medical  
20 Licensure and Supervision may, upon probable cause, request a  
21 physician to submit to a mental or physical examination by  
22 physicians designated by it. If the physician refuses to submit to  
23 the examination, the Board shall issue an order requiring the  
24 physician to show cause why the physician will not submit to the

1 examination and shall schedule a hearing on the order within thirty  
2 (30) calendar days after notice is served on the physician,  
3 exclusive of the day of service. The physician shall be notified by  
4 either personal service or by certified mail with return receipt  
5 requested. At the hearing, the physician and the physician's  
6 attorney are entitled to present any testimony and other evidence to  
7 show why the physician should not be required to submit to the  
8 examination. After a complete hearing, the Board shall issue an  
9 order either requiring the physician to submit to the examination or  
10 withdrawing the request for examination. The medical license of a  
11 physician ordered to submit for examination may be suspended until  
12 the results of the examination are received and reviewed by the  
13 Board;

14 16. Prescribing, dispensing or administering of controlled  
15 substances or narcotic drugs in excess of the amount considered good  
16 medical practice, or prescribing, dispensing or administering  
17 controlled substances or narcotic drugs without medical need in  
18 accordance with published standards;

19 17. Engaging in physical conduct with a patient which is sexual  
20 in nature, or in any verbal behavior which is seductive or sexually  
21 demeaning to a patient;

22 18. Failure to maintain an office record for each patient which  
23 accurately reflects the evaluation, treatment, and medical necessity  
24 of treatment of the patient;



1        19. Failure to provide necessary ongoing medical treatment when  
2 a doctor-patient relationship has been established, which  
3 relationship can be severed by either party providing a reasonable  
4 period of time is granted; or

5        20. Failure to provide a proper and safe medical facility  
6 setting and qualified assistive personnel for a recognized medical  
7 act, including but not limited to an initial in-person patient  
8 examination, office surgery, diagnostic service or any other medical  
9 procedure or treatment. Adequate medical records to support  
10 diagnosis, procedure, treatment or prescribed medications must be  
11 produced and maintained.

12        SECTION 8.        AMENDATORY        59 O.S. 2011, Section 512, as  
13 amended by Section 3, Chapter 176, O.S.L. 2014 (59 O.S. Supp. 2017,  
14 Section 512), is amended to read as follows:

15        Section 512. A. The secretary of the State Board of Medical  
16 Licensure and Supervision shall be paid an annual salary in an  
17 amount fixed by the Board. The Board shall have the authority to  
18 expend such funds as are necessary in carrying out the duties of the  
19 Board and shall have the authority to hire all necessary personnel,  
20 at salaries to be fixed by the Board, as the Board shall deem  
21 necessary. The Board shall have the authority to hire attorneys to  
22 represent the Board in all legal matters and to assist authorized  
23 state and county officers in prosecuting or restraining violations  
24

1 of Section 481 et seq. of this title, and to fix the salaries or per  
2 diem of said attorneys.

3 B. The Board shall have the authority to hire one or more  
4 investigators as may be necessary to carry out the provisions of  
5 this act at an annual salary to be fixed by the Board. Such  
6 investigators may be commissioned peace officers of this state. In  
7 addition such investigators shall have the authority and duty to  
8 investigate and inspect the records of all persons in order to  
9 determine whether or not a disciplinary action for unprofessional  
10 misconduct is warranted or whether the narcotic laws or the  
11 dangerous drug laws have been complied with. Investigative records,  
12 interviews and reports shall be confidential and shall not be  
13 subject to discovery under Oklahoma discovery or open-records laws.

14 C. 1. For purposes of this section, investigators shall be  
15 peace officers certified by the Council on Law Enforcement Education  
16 and Training and shall have statewide jurisdiction to perform the  
17 duties authorized by this section. In addition, the investigators  
18 shall have all the powers now or hereafter vested by law in peace  
19 officers. Investigative records, interviews and reports shall be  
20 confidential and shall not be subject to discovery under Oklahoma  
21 discovery or open-records laws.

22 2. Investigators for the State Board of Medical Licensure and  
23 Supervision shall perform such services as are necessary in the  
24

1 investigation of criminal activity or preparation of administrative  
2 actions.

3 3. Any licensee or applicant for license subject to the  
4 provisions of the Oklahoma Allopathic Medical and Surgical Licensure  
5 and Supervision Act shall be deemed to have given consent to any  
6 duly authorized investigator of the Board to access, enter or  
7 inspect the records, either on-site or at the Board office, or  
8 facilities of such licensee or applicant subject to the Oklahoma  
9 Allopathic Medical and Surgical Licensure and Supervision Act.  
10 Refusal to allow such access, entry or inspection may constitute  
11 grounds for the denial, nonrenewal, suspension or revocation of a  
12 license. Upon refusal of such access, entry or inspection, pursuant  
13 to this section, the Board or a duly authorized representative may  
14 make application for and obtain a search warrant from the district  
15 court where the facility or records are located to allow such  
16 access, entry or inspection.

17 D. 1. The Board is specifically authorized to contract with  
18 state agencies or other bodies to perform investigative services or  
19 other administrative services at a rate set by the Board.

20 2. The Board is authorized to pay the travel expenses of Board  
21 employees and members in accordance with the State Travel  
22 Reimbursement Act.  
23  
24

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

4       SECTION 9.       AMENDATORY       59 O.S. 2011, Section 513, is  
5 amended to read as follows:

6       Section 513. A. 1. The State Board of Medical Licensure and  
7 Supervision is hereby given quasi-judicial powers while sitting as a  
8 Board for the purpose of revoking, suspending or imposing other  
9 disciplinary actions upon the license of physicians or surgeons of  
10 this state, and appeals from its decisions shall be taken to the  
11 Supreme Court of this state within thirty (30) days of the date that  
12 a copy of the decision is mailed to the appellant, as shown by the  
13 certificate of mailing attached to the decision.

14       2. The license of any physician or surgeon who has been  
15 convicted of any felony in or without the State of Oklahoma and  
16 whether in a state or federal court, may be suspended by the Board  
17 upon the submission thereto of a certified copy of the judgment and  
18 sentence of the trial court and the certificate of the clerk of the  
19 court of the conviction.

20       3. Upon proof of a ~~final~~ felony conviction by the courts ~~and~~  
21 ~~after exhaustion of the appellate process~~, the Board shall revoke  
22 the physician's license. If the felony conviction is overturned on  
23 appeal and no other appeals are sought, the Board shall restore the  
24 license of the physician. ~~Suspension or revocation of the license~~

1 ~~of any person convicted of a felony on any other grounds than that~~  
2 ~~of moral turpitude or the violation of the federal or state narcotic~~  
3 ~~laws, shall be on the merits of the particular case, but the court~~  
4 Court ~~records in the trial of such case when~~ of such a conviction  
5 ~~has been had~~ shall be prima facie evidence of the conviction.

6 4. The Board shall also revoke and cancel the license of any  
7 physician or surgeon who has been charged in a court of record of  
8 this or other states of the United States or in the federal court  
9 with the commission of a felony and who is a fugitive from justice,  
10 upon the submission of a certified copy of the charge together with  
11 a certificate from the clerk of the court that after the commitment  
12 of the crime the physician or surgeon fled from the jurisdiction of  
13 the court and is a fugitive from justice.

14 B. To the extent necessary to allow the Board the power to  
15 enforce disciplinary actions imposed by the Board, in the exercise  
16 of its authority, the Board may punish willful violations of its  
17 orders and impose additional penalties as allowed by Section 509.1  
18 of this title.

19 SECTION 10. AMENDATORY 59 O.S. 2011, Section 518.1, is  
20 amended to read as follows:

21 Section 518.1 A. There is hereby established the Allied  
22 Professional Peer Assistance Program to rehabilitate allied medical  
23 professionals whose competency may be compromised because of the  
24 abuse of drugs or alcohol, so that such allied medical professionals

1 can be treated and can return to or continue the practice of allied  
2 medical practice in a manner which will benefit the public. The  
3 program shall be under the supervision and control of the State  
4 Board of Medical Licensure and Supervision.

5 B. The Board may appoint one or more peer assistance evaluation  
6 advisory committees, hereinafter called the "allied peer assistance  
7 committees". Each of these committees shall be composed of members,  
8 the majority of which shall be licensed allied medical professionals  
9 with expertise in chemical dependency. The allied peer assistance  
10 committees shall function under the authority of the State Board of  
11 Medical Licensure and Supervision in accordance with the rules of  
12 the Board. The program may be one hundred percent (100%) outsourced  
13 to professional groups specialized in this arena. The committee  
14 members shall serve without pay, but may be reimbursed for the  
15 expenses incurred in the discharge of their official duties in  
16 accordance with the State Travel Reimbursement Act.

17 C. The Board may appoint and employ a qualified person or  
18 persons to serve as program coordinators and shall fix such person's  
19 compensation. The program may employ a director for purposes of  
20 ongoing nonclerical administrative duties and shall fix the  
21 director's compensation. The Board shall define the duties of the  
22 program coordinators and director who shall report directly to the  
23 Board.

1 D. The Board is authorized to adopt and revise rules, not  
2 inconsistent with the Oklahoma Allopathic Medical and Surgical  
3 Licensure and Supervision Act, as may be necessary to enable it to  
4 carry into effect the provisions of this section.

5 E. A portion of licensing fees for each allied profession, not  
6 to exceed Ten Dollars (\$10.00), may be used to implement and  
7 maintain the Allied Professional Peer Assistance Program.

8 F. All monies paid pursuant to subsection E of this section  
9 shall be deposited in an agency special account revolving fund under  
10 the State Board of Medical Licensure and Supervision, and shall be  
11 used for the general operating expenses of the Allied Professional  
12 Peer Assistance Program, including payment of personal services.

13 G. Records and management information system of the  
14 professionals enrolled in the Allied Professional Peer Assistance  
15 Program and reports shall be maintained in the program office in a  
16 place separate and apart from the records of the Board. The records  
17 shall be made public only by subpoena and court order; provided  
18 however, confidential treatment shall be cancelled upon default by  
19 the professional in complying with the requirements of the program.

20 H. Any person making a report to the Board or to an allied peer  
21 assistance committee regarding a professional suspected of  
22 practicing allied medical practice while habitually intemperate or  
23 addicted to the use of habit-forming drugs, or a professional's  
24 progress or lack of progress in rehabilitation, shall be immune from

1 any civil or criminal action resulting from such reports, provided  
2 such reports are made in good faith.

3 I. A professional's participation in the Allied Professional  
4 Peer Assistance Program in no way precludes additional proceedings  
5 by the Board for acts or omissions of acts not specifically related  
6 to the circumstances resulting in the professional's entry into the  
7 program. However, in the event the professional defaults from the  
8 program, the Board may discipline the professional for those acts  
9 which led to the professional entering the program.

10 J. The Executive Director of the Board shall suspend the  
11 license immediately upon notification that the licensee has  
12 defaulted from the Allied Professional Peer Assistance Program, and  
13 shall assign a hearing date for the matter to be presented to the  
14 Board.

15 K. All treatment information, whether or not recorded, and all  
16 communications between a professional and therapist are both  
17 privileged and confidential. In addition, the identity of all  
18 persons who have received or are receiving treatment services shall  
19 be considered confidential and privileged.

20 L. As used in this section, unless the context otherwise  
21 requires:

22 1. "Board" means the State Board of Medical Licensure and  
23 Supervision; and  
24



1        2. "Allied peer assistance committee" means the peer assistance  
2 evaluation advisory committee created in this section, which is  
3 appointed by the State Board of Medical Licensure and Supervision to  
4 carry out specified duties.

5        M. The Allied Professional Peer Assistance Program may contract  
6 with outside entities for services that are not available to it or  
7 can be obtained for a lesser cost through such a contract. The  
8 contract shall be ratified by the Board.

9        SECTION 11.        NEW LAW        A new section of law to be codified  
10 in the Oklahoma Statutes as Section 503.2 of Title 59, unless there  
11 is created a duplication in numbering, reads as follows:

12        A. The State Board of Medical Licensure and Supervision may  
13 promulgate rules to create administrative remedies for licensee  
14 violations of statutory or regulatory proscribed unprofessional  
15 conduct.

16        B. The Board is authorized to prescribe by rule administrative  
17 remedies, disciplinary actions and administrative procedures to  
18 provide remedies and disciplinary actions for licensee violations of  
19 statutory or regulatory proscribed unprofessional conduct, to  
20 include fines up to the limits otherwise prescribed by statute or  
21 rule.

22        C. Any such administrative action rules promulgated by the  
23 Board shall provide procedures:  
24

1        1. For the licensee to contest or dispute any administrative  
2 action;

3        2. For procedure for the resolution of any such contest or  
4 dispute; and

5        3. For appropriate protection of private information consistent  
6 with state and federal law.

7        SECTION 12.        AMENDATORY        74 O.S. 2011, Section 18c, as  
8 last amended by Section 1, Chapter 31, O.S.L. 2016 (74 O.S. Supp.  
9 2017, Section 18c), is amended to read as follows:

10       Section 18c. A. 1. Except as otherwise provided by this  
11 subsection, no state officer, board or commission shall have  
12 authority to employ or appoint attorneys to advise or represent said  
13 officer, board or commission in any matter.

14       2. The provisions of this subsection shall not apply to the  
15 Corporation Commission, the Council on Law Enforcement Education and  
16 Training, the Consumer Credit Commission, the Board of Managers of  
17 the State Insurance Fund, the Oklahoma Tax Commission, the  
18 Commissioners of the Land Office, the Oklahoma Public Welfare  
19 Commission also known as the Commission for Human Services, the  
20 State Board of Corrections, the Oklahoma Health Care Authority, the  
21 Department of Public Safety, the Oklahoma State Bureau of Narcotics  
22 and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement  
23 Commission, the Transportation Commission, the Oklahoma Energy  
24 Resources Board, the Oklahoma Merit Protection Commission, the

1 Office of Management and Enterprise Services, the Oklahoma Water  
2 Resources Board, the Department of Labor, the Department of  
3 Agriculture, Food, and Forestry, the Northeast Oklahoma Public  
4 Facilities Authority, the Oklahoma Firefighters Pension and  
5 Retirement System, the Oklahoma Public Employees Retirement System,  
6 the Uniform Retirement System for Justices and Judges, the Oklahoma  
7 Conservation Commission, the Office of Juvenile Affairs, the State  
8 Board of Pharmacy, the State Board of Medical Licensure and  
9 Supervision and until January 1, 2022, the Oklahoma Department of  
10 Veterans Affairs.

11 3. The provisions of paragraph 2 of this subsection shall not  
12 be construed to authorize the Office of Juvenile Affairs to employ  
13 any attorneys that are not specifically authorized by law.

14 4. All the legal duties of such officer, board or commission  
15 shall devolve upon and are hereby vested in the Attorney General;  
16 provided that:

- 17 a. the Governor shall have authority to employ special  
18 counsel to protect the rights or interest of the state  
19 as provided in Section 6 of this title, and
- 20 b. liquidation agents of banks shall have the authority  
21 to employ local counsel, with the consent of the Bank  
22 Commissioner and the Attorney General and the approval  
23 of the district court.

1       B. At the request of any state officer, board or commission,  
2 except the Corporation Commission, the Board of Managers of the  
3 CompSource Oklahoma, Oklahoma Tax Commission and the Commissioners  
4 of the Land Office, the Grand River Dam Authority, the Oklahoma  
5 State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic  
6 Beverage Laws Enforcement Commission, the Oklahoma Firefighters  
7 Pension and Retirement System, the Oklahoma Public Employees  
8 Retirement System, the Uniform Retirement System for Justices and  
9 Judges and the Interstate Oil and Gas Compact Commission, the  
10 Attorney General shall defend any action in which they may be sued  
11 in their official capacity. At the request of any such state  
12 officer, board or commission, the Attorney General shall have  
13 authority to institute suits in the name of the State of Oklahoma on  
14 their relation, if after investigation the Attorney General is  
15 convinced there is sufficient legal merit to justify the action.

16       C. Any officer, board, or commission which has the authority to  
17 employ or appoint attorneys may request that the Attorney General  
18 defend any action arising pursuant to the provisions of The  
19 Governmental Tort Claims Act.

20       D. Nothing in this section shall be construed to repeal or  
21 affect the provisions of the statutes of this state pertaining to  
22 attorneys and legal advisors of the several commissions and  
23 departments of state specified in subsection B of this section, and  
24

1 all acts and parts of acts pertaining thereto shall be and remain in  
2 full force and effect.

3 SECTION 13. This act shall become effective November 1, 2018.

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