STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 1353 By: Yen

COMMITTEE SUBSTITUTE

An Act relating to provisionally licensed physicians; defining terms; providing for scope of practice; directing the State Board of Medical Licensure and Supervision and the State Board of Osteopathic Examiners to promulgate certain rules; specifying professional terms; requiring collaborative practice arrangement; setting forth provisions related to collaborative practice arrangements; providing certain exemption; specifying criteria to be included in arrangements; providing for promulgation of certain rules and approval of rules; prohibiting certain disciplinary action under certain circumstances; setting certain limitation on arrangements; requiring disclosure of certain information related to arrangements; requiring certain documentation; providing certain construction; requiring identification badges; 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. "Graduate of a school or college of osteopathic medicine" means any person who has graduated from a school or college of osteopathic medicine as defined in this section;

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

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

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

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

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

(2) has successfully completed Level 1 and Level 2 of the Comprehensive Osteopathic Medical Licensing

Examination of the United States or the equivalent of such steps of any other medical licensing examination approved by the State Board of Osteopathic Examiners within the two-year period immediately preceding application for licensure as a provisionally licensed physician, but in no event more than three (3) years after graduation from a school or college of osteopathic medicine,

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

(2) has not completed an approved postgraduate residency and has successfully completed Level 2 of the Comprehensive Osteopathic Medical Licensing Examination of the United States or the equivalent of

such step of any other medical licensing examination approved by the State Board of Osteopathic Examiners within the immediately preceding two-year period unless when such two-year anniversary occurred he or she was serving as a resident physician in an accredited residency in the United States and continued to do so within thirty (30) calendar days prior to application for licensure as a provisionally licensed physician, and

d. has proficiency in the English language;

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

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

a. for admission to its courses of study, a preliminary education equal to the requirements established by the Bureau of Professional Education of the American Osteopathic Association, and

b. for granting the D.O. degree, Doctor of Osteopathy or Doctor of Osteopathic Medicine, actual attendance at such osteopathic school or college and demonstration

of successful completion of the curriculum and recommendation for graduation.

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

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

B. The licensure of provisionally licensed physicians shall take place within processes established by rules of the Board of Medical Licensure and Supervision or of the State Board of Osteopathic Examiners, as appropriate. The Board of Medical Licensure and Supervision and the State Board of Osteopathic Examiners shall promulgate rules establishing licensure and renewal procedures, supervision, collaborative practice arrangements, fees and addressing such other matters as are necessary to protect the public and discipline the profession. An application for licensure may be denied or the licensure of a provisionally licensed physician may be suspended or revoked by the Board of Medical Licensure and Supervision or by the State Board of Osteopathic Examiners, as appropriate, in the same manner and for violation of the standards as set forth by the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act or the Oklahoma Osteopathic Medicine Act, or such other standards of conduct set by the Board of Medical

Licensure and Supervision or the State Board of Osteopathic Examiners, as appropriate, by rule.

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

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

E. The provisions of Section 3 of this act shall apply to all provisionally licensed physician collaborative practice arrangements. To be eligible to practice as a provisionally licensed physician, a provisionally licensed physician shall enter into a provisionally licensed physician collaborative practice arrangement within six (6) months of his or her initial licensure and shall not have more than a six-month time period between collaborative practice arrangements during his or her licensure period. Any renewal of licensure pursuant to this section shall include verification of actual practice under a collaborative

practice arrangement in accordance with this subsection during the immediately preceding licensure period.

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

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

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

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

A. A physician may enter into collaborative practice arrangements with provisionally licensed physicians. Collaborative practice arrangements shall be in the form of written agreements, jointly agreed-upon protocols or standing orders for the delivery of health care services. Collaborative practice arrangements, which shall be in writing, may delegate to a provisionally licensed physician the authority to administer and dispense drugs and provide treatment as long as the delivery of such health care services is within the scope of practice of the provisionally licensed physician and is consistent with that provisionally licensed physician's

skill, training and competence and the skill and training of the collaborating physician.

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

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

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

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

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

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

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

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

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

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

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

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

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

10. A requirement that the collaborating physician, or any other physician designated in the collaborative practice arrangement, shall review every fourteen (14) calendar days a minimum of twenty percent (20%) of the charts in which the provisionally licensed physician prescribes controlled substances.

The charts reviewed pursuant to this paragraph may be counted in the number of charts required to be reviewed under paragraph 9 of this subsection.

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

1. Geographic areas to be covered;

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

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

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

D. Any rules relating to dispensing or distribution of medications or devices by prescription or prescription drug orders pursuant to this section shall be subject to the approval of the

State Board of Pharmacy. Any rules relating to dispensing or distribution of controlled substances by prescription or prescription drug orders pursuant to this section shall be subject to the approval of the State Department of Health and the State Board of Pharmacy. The Board of Medical Licensure and Supervision and the State Board of Osteopathic Examiners shall promulgate rules applicable to provisionally licensed physicians that shall be consistent with guidelines for federally funded clinics.

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

F. Within thirty (30) calendar days of any change and on each renewal, the Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners, as appropriate, shall require every physician to identify whether the physician is engaged in any collaborative practice arrangement, including but not limited to collaborative practice arrangements delegating the authority to prescribe controlled substances, and also report to the Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners, as appropriate, the name of each provisionally licensed physician with whom the physician has entered into such arrangement.

The Board of Medical Licensure and Supervision and the State Board of Osteopathic Examiners may make such information available to the public. The Board of Medical Licensure and Supervision and the State Board of Osteopathic Examiners shall track the reported information and may routinely conduct random reviews of such arrangements to ensure that arrangements are carried out for compliance pursuant to this section.

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

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

I. No agreement made pursuant to this section shall supersede current hospital licensing regulations governing hospital medication orders under protocols or standing orders for the purpose of delivering inpatient or emergency care within a hospital as defined in Section 1-701 of Title 63 of the Oklahoma Statutes if such protocols or standing orders have been approved by the hospital's medical staff and pharmaceutical therapeutics committee.

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

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

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

M. 1. A provisionally licensed physician with a certificate of controlled substance prescriptive authority as provided in this section may prescribe any controlled substance listed in Schedule III, IV or V of the Uniform Controlled Dangerous Substances Act, and may have restricted authority in Schedule II, when delegated the authority to prescribe controlled substances in a collaborative practice arrangement. Prescriptions for Schedule II medications prescribed by a provisionally licensed physician who has a certificate of controlled substance prescriptive authority are restricted to only those medications containing hydrocodone. Such authority shall be filed with the Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners, as appropriate. The collaborating physician shall maintain the right to limit a specific scheduled drug or scheduled drug category that the provisionally licensed physician is permitted to prescribe. Any limitations shall be listed in the collaborative practice arrangement. Provisionally licensed physicians shall not prescribe controlled substances for themselves or members of their families. Schedule III controlled substances and Schedule II hydrocodone prescriptions shall be limited to a five-day supply without refill. Provisionally licensed physicians who are authorized to prescribe controlled substances under this section shall register with the federal Drug Enforcement Administration and the Oklahoma Bureau of Narcotics and Dangerous Drugs, and shall include the Drug

Enforcement Administration registration number on prescriptions for controlled substances.

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

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

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

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