

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

SUBCOMMITTEE RECOMMENDATION  
FOR

HOUSE BILL NO. 1886

By: Ownbey

SUBCOMMITTEE RECOMMENDATION

An Act relating to professions and occupations;  
amending 59 O.S. 2011, Sections 567.3a, 567.4a,  
567.8, as last amended by Section 2, Chapter 190,  
O.S.L. 2016, Section 567.17, as amended by Section 4,  
Chapter 190, O.S.L. 2016, and Section 9, Chapter 190,  
O.S.L. 2016 (59 O.S. Supp. 2016, Sections 567.8,  
567.17 and 567.25), which relate to the Oklahoma  
Nursing Practice Act; modifying certain definitions;  
updating statutory reference; granting Oklahoma Board  
of Nursing authority to impose disciplinary action  
for an individual guilty of deceit or material  
misrepresentation a license with or without certain  
recognition; granting Board authority to impose  
disciplinary action for an individual who has been  
terminated from the peer assistance program;  
authorizing summary suspension of license if certain  
finding is made by majority of Board officers;  
requiring licensee to be notified by letter within  
certain number of days; requiring letter to include  
certain notice; adding certain definition regarding  
peer assistance program; prohibiting certain  
information to be shared with a state not a party of  
the Nurse Licensure Compact; and providing an  
effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 567.3a, is amended to read as follows:

Section 567.3a As used in the Oklahoma Nursing Practice Act:

1. "Board" means the Oklahoma Board of Nursing;

2. "The practice of nursing" means the performance of services provided for purposes of nursing diagnosis and treatment of human responses to actual or potential health problems consistent with educational preparation. Knowledge and skill are the basis for assessment, analysis, planning, intervention, and evaluation used in the promotion and maintenance of health and nursing management of illness, injury, infirmity, restoration or optimal function, or death with dignity. Practice is based on understanding the human condition across the human lifespan and understanding the relationship of the individual within the environment. This practice includes execution of the medical regime including the administration of medications and treatments prescribed by any person authorized by state law to so prescribe;

3. "Registered nursing" means the practice of the full scope of nursing which includes, but is not limited to:

- a. assessing the health status of individuals, families and groups,
- b. analyzing assessment data to determine nursing care needs,

- c. establishing goals to meet identified health care needs,
- d. planning a strategy of care,
- e. establishing priorities of nursing intervention to implement the strategy of care,
- f. implementing the strategy of care,
- g. delegating such tasks as may safely be performed by others, consistent with educational preparation and that do not conflict with the provisions of the Oklahoma Nursing Practice Act,
- h. providing safe and effective nursing care rendered directly or indirectly,
- i. evaluating responses to interventions,
- j. teaching the principles and practice of nursing,
- k. managing and supervising the practice of nursing,
- l. collaborating with other health professionals in the management of health care,
- m. performing additional nursing functions in accordance with knowledge and skills acquired beyond basic nursing preparation, and
- n. delegating those nursing tasks as defined in the rules of the Board that may be performed by an advanced unlicensed assistive person;

1       4. "Licensed practical nursing" means the practice of nursing  
2 under the supervision or direction of a registered nurse, licensed  
3 physician or dentist. This directed scope of nursing practice  
4 includes, but is not limited to:

- 5           a. contributing to the assessment of the health status of  
6               individuals and groups,
- 7           b. participating in the development and modification of  
8               the plan of care,
- 9           c. implementing the appropriate aspects of the plan of  
10               care,
- 11           d. delegating such tasks as may safely be performed by  
12               others, consistent with educational preparation and  
13               that do not conflict with the Oklahoma Nursing  
14               Practice Act,
- 15           e. providing safe and effective nursing care rendered  
16               directly or indirectly,
- 17           f. participating in the evaluation of responses to  
18               interventions,
- 19           g. teaching basic nursing skills and related principles,
- 20           h. performing additional nursing procedures in accordance  
21               with knowledge and skills acquired through education  
22               beyond nursing preparation, and

- 1           i.     delegating those nursing tasks as defined in the rules  
2                 of the Board that may be performed by an advanced  
3                 unlicensed assistive person;

4           5.    "Advanced Practice Registered Nurse" means a licensed  
5 Registered Nurse:

- 6           a.     who has completed an advanced practice registered  
7                 nursing education program in preparation for one of  
8                 four recognized advanced practice registered nurse  
9                 roles,  
10          b.     who has passed a national certification examination  
11                 recognized by the Board that measures the advanced  
12                 practice registered nurse role and specialty  
13                 competencies and who maintains recertification in the  
14                 role and specialty through a national certification  
15                 program,  
16          c.     who has acquired advanced clinical knowledge and  
17                 skills in preparation for providing both direct and  
18                 indirect care to patients; however, the defining  
19                 factor for all Advanced Practice Registered Nurses is  
20                 that a significant component of the education and  
21                 practice focuses on direct care of individuals,  
22          d.     whose practice builds on the competencies of  
23                 Registered Nurses by demonstrating a greater depth and  
24

1           breadth of knowledge, a greater synthesis of data, and  
2           increased complexity of skills and interventions, and  
3       e.    who has obtained a license as an Advanced Practice  
4           Registered Nurse in one of the following roles:  
5           Certified Registered Nurse Anesthetist, Certified  
6           Nurse-Midwife, Clinical Nurse Specialist, or Certified  
7           Nurse Practitioner.

8       Only those persons who hold a license to practice advanced  
9   practice registered nursing in this state shall have the right to  
10   use the title "Advanced Practice Registered Nurse" and to use the  
11   abbreviation "APRN". Only those persons who have obtained a license  
12   in the following disciplines shall have the right to fulfill the  
13   roles and use the applicable titles: Certified Registered Nurse  
14   Anesthetist and the abbreviation "CRNA", Certified Nurse-Midwife and  
15   the abbreviation "CNM", Clinical Nurse Specialist and the  
16   abbreviation "CNS", and Certified Nurse Practitioner and the  
17   abbreviation "CNP".

18       It shall be unlawful for any person to assume the role or use  
19   the title Advanced Practice Registered Nurse or use the abbreviation  
20   "APRN" or use the respective specialty role titles and abbreviations  
21   or to use any other titles or abbreviations that would reasonably  
22   lead a person to believe the user is an Advanced Practice Registered  
23   Nurse, unless permitted by this act. Any individual doing so shall  
24   be guilty of a misdemeanor, which shall be punishable, upon

conviction, by imprisonment in the county jail for not more than one (1) year or by a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), or by both such imprisonment and fine for each offense;

6. "Certified Nurse Practitioner" is an Advanced Practice Registered Nurse who performs in an expanded role in the delivery of health care:

- a. consistent with advanced educational preparation as a Certified Nurse Practitioner in an area of specialty,
- b. functions within the Certified Nurse Practitioner scope of practice for the selected area of specialization, and
- c. is in accord with the standards for Certified Nurse Practitioners as identified by the certifying body and approved by the Board.

A Certified Nurse Practitioner shall be eligible, in accordance with the scope of practice of the Certified Nurse Practitioner, to obtain recognition as authorized by the Board to prescribe, as defined by the rules promulgated by the Board pursuant to this section and subject to the medical direction of a supervising physician. This authorization shall not include dispensing drugs, but shall not preclude, subject to federal regulations, the receipt of, the signing for, or the dispensing of professional samples to patients.

1       The Certified Nurse Practitioner accepts responsibility,  
2       accountability, and obligation to practice in accordance with usual  
3       and customary advanced practice registered nursing standards and  
4       functions as defined by the scope of practice/role definition  
5       statements for the Certified Nurse Practitioner;

6       7.     a.     "Clinical Nurse Specialist" is an Advanced Practice  
7               Registered Nurse who holds:

- 8               (1)    a master's degree or higher in nursing with  
9                       clinical specialization preparation to function  
10                      in an expanded role,  
11               (2)    specialty certification from a national  
12                      certifying organization recognized by the Board,  
13               (3)    ~~a certificate of recognition~~ an Advanced Practice  
14                      Registered Nurse license from the Board, and  
15               (4)    any nurse holding a specialty certification as a  
16                      Clinical Nurse Specialist valid on January 1,  
17                      1994, granted by a national certifying  
18                      organization recognized by the Board, shall be  
19                      deemed to be a Clinical Nurse Specialist under  
20                      the provisions of the Oklahoma Nursing Practice  
21                      Act.

22       b.     In the expanded role, the Clinical Nurse Specialist  
23               performs at an advanced practice level which shall  
24               include, but not be limited to:

- (1) practicing as an expert clinician in the provision of direct nursing care to a selected population of patients or clients in any setting, including private practice,
- (2) managing the care of patients or clients with complex nursing problems,
- (3) enhancing patient or client care by integrating the competencies of clinical practice, education, consultation, and research, and
- (4) referring patients or clients to other services.

- c. A Clinical Nurse Specialist in accordance with the scope of practice of such Clinical Nurse Specialist shall be eligible to obtain recognition as authorized by the Board to prescribe, as defined by the rules promulgated by the Board pursuant to this section, and subject to the medical direction of a supervising physician. This authorization shall not include dispensing drugs, but shall not preclude, subject to federal regulations, the receipt of, the signing for, or the dispensing of professional samples to patients.
- d. The Clinical Nurse Specialist accepts responsibility, accountability, and obligation to practice in accordance with usual and customary advanced practice nursing standards and functions as defined by the

1 scope of practice/role definition statements for the  
2 Clinical Nurse Specialist;

3 8. "Nurse-Midwife" is a ~~qualified-registered~~ nurse who has  
4 received ~~a certificate of recognition~~ an Advanced Practice  
5 Registered Nurse license from the Oklahoma Board of Nursing who  
6 possesses evidence of certification according to the requirements of  
7 the American College of Nurse-Midwives.

8 A Certified Nurse-Midwife in accordance with the scope of  
9 practice of such Certified Nurse-Midwife shall be eligible to obtain  
10 recognition as authorized by the Board to prescribe, as defined by  
11 the rules promulgated by the Board pursuant to this section and  
12 subject to the medical direction of a supervising physician. This  
13 authorization shall not include the dispensing of drugs, but shall  
14 not preclude, subject to federal regulations, the receipt of, the  
15 signing for, or the dispensing of professional samples to patients.

16 The Certified Nurse-Midwife accepts responsibility,  
17 accountability, and obligation to practice in accordance with usual  
18 and customary advanced practice registered nursing standards and  
19 functions as defined by the scope of practice/role definition  
20 statements for the Certified Nurse-Midwife;

21 9. "Nurse-midwifery practice" means providing management of  
22 care of normal newborns and women, antepartally, intrapartally,  
23 postpartally and gynecologically, occurring within a health care  
24 system which provides for medical consultation, medical management

1 or referral, and is in accord with the standards for nurse-midwifery  
2 practice as defined by the American College of Nurse-Midwives;

3 10. a. "Certified Registered Nurse Anesthetist" is an  
4 Advanced Practice Registered Nurse who:

5 (1) is certified by the ~~Council on Certification of~~  
6 National Board of Certification and  
7 Recertification for Nurse Anesthetists as a  
8 Certified Registered Nurse Anesthetist within one  
9 (1) year following completion of an approved  
10 certified registered nurse anesthetist education  
11 program, and continues to maintain such  
12 recertification by the ~~Council on~~ National Board  
13 of Certification and Recertification of for Nurse  
14 Anesthetists, and

15 (2) administers anesthesia under the supervision of a  
16 medical doctor, an osteopathic physician, a  
17 podiatric physician or a dentist licensed in this  
18 state and under conditions in which timely onsite  
19 consultation by such doctor, osteopath, podiatric  
20 physician or dentist is available.

21 b. A Certified Registered Nurse Anesthetist, under the  
22 supervision of a medical doctor, osteopathic  
23 physician, podiatric physician or dentist licensed in  
24 this state, and under conditions in which timely, on-

1 site consultation by such medical doctor, osteopathic  
2 physician, podiatric physician or dentist is  
3 available, shall be authorized, pursuant to rules  
4 adopted by the Oklahoma Board of Nursing, to order,  
5 select, obtain and administer legend drugs, Schedules  
6 II through V controlled substances, devices, and  
7 medical gases only when engaged in the preanesthetic  
8 preparation and evaluation; anesthesia induction,  
9 maintenance and emergence; and postanesthesia care. A  
10 Certified Registered Nurse Anesthetist may order,  
11 select, obtain and administer drugs only during the  
12 perioperative or periobstetrical period.

13 c. A Certified Registered Nurse Anesthetist who applies  
14 for authorization to order, select, obtain and  
15 administer drugs shall:

- 16 (1) be currently recognized as a Certified Registered  
17 Nurse Anesthetist in this state,  
18 (2) provide evidence of completion, within the two-  
19 year period immediately preceding the date of  
20 application, of a minimum of fifteen (15) units  
21 of continuing education in advanced pharmacology  
22 related to the administration of anesthesia as  
23 recognized by the ~~Council on~~ National Board of  
24 Certification and Recertification of for Nurse

1                   Anesthetists ~~or the Council on Certification of~~  
2                   Nurse Anesthetists, and

3                   (3) complete and submit a notarized application, on a  
4                   form prescribed by the Board, accompanied by the  
5                   application fee established pursuant to this  
6                   section.

7                   d. The authority to order, select, obtain and administer  
8                   drugs shall be terminated if a Certified Registered  
9                   Nurse Anesthetist has:

10                   (1) ordered, selected, obtained or administered drugs  
11                   outside of the Certified Registered Nurse  
12                   Anesthetist scope of practice or ordered,  
13                   selected, obtained or administered drugs for  
14                   other than therapeutic purposes, or

15                   (2) violated any provision of state laws or rules or  
16                   federal laws or regulations pertaining to the  
17                   practice of nursing or the authority to order,  
18                   select, obtain and administer drugs.

19                   e. The Oklahoma Board of Nursing shall notify the Board  
20                   of Pharmacy after termination of or a change in the  
21                   authority to order, select, obtain and administer  
22                   drugs for a Certified Registered Nurse Anesthetist.

23                   f. The Board shall provide by rule for biennial  
24                   application renewal and reauthorization of authority

1 to order, select, obtain and administer drugs for  
2 Certified Registered Nurse Anesthetists. At the time  
3 of application renewal, a Certified Registered Nurse  
4 Anesthetist shall submit documentation of a minimum of  
5 eight (8) units of continuing education, completed  
6 during the previous two (2) years, in advanced  
7 pharmacology relating to the administration of  
8 anesthesia, as recognized by the Council on  
9 Recertification of Nurse Anesthetists or the Council  
10 on Certification of Nurse Anesthetists.

11 g. This paragraph shall not prohibit the administration  
12 of local or topical anesthetics as now permitted by  
13 law. Provided further, nothing in this paragraph  
14 shall limit the authority of the Board of Dentistry to  
15 establish the qualifications for dentists who direct  
16 the administration of anesthesia;

17 11. "Supervising physician" means an individual holding a  
18 current license to practice as a physician from the State Board of  
19 Medical Licensure and Supervision or the State Board of Osteopathic  
20 Examiners, who supervises a Certified Nurse Practitioner, a Clinical  
21 Nurse Specialist, or a Certified Nurse-Midwife, and who is not in  
22 training as an intern, resident, or fellow. To be eligible to  
23 supervise such Advanced Practice Registered Nurse, such physician  
24 shall remain in compliance with the rules promulgated by the State

1 Board of Medical Licensure and Supervision or the State Board of  
2 Osteopathic Examiners;

3 12. "Supervision of an Advanced Practice Registered Nurse with  
4 prescriptive authority" means overseeing and accepting  
5 responsibility for the ordering and transmission by a Certified  
6 Nurse Practitioner, a Clinical Nurse Specialist, or a Certified  
7 Nurse-Midwife of written, telephonic, electronic or oral  
8 prescriptions for drugs and other medical supplies, subject to a  
9 defined formulary; and

10 13. "Advanced Unlicensed Assistant" means any person who has  
11 successfully completed a certified training program approved by the  
12 Board that trains the Advanced Unlicensed Assistant to perform  
13 specified technical skills identified by the Board in acute care  
14 settings under the direction and supervision of the Registered Nurse  
15 or Licensed Practical Nurse.

16 SECTION 2. AMENDATORY 59 O.S. 2011, Section 567.4a, is  
17 amended to read as follows:

18 Section 576.4a The rules regarding prescriptive authority  
19 recognition promulgated by the Oklahoma Board of Nursing pursuant to  
20 paragraphs 6 through 9, 11 and 12 of Section 567.3a of this title  
21 shall:

22 1. Define the procedure for documenting supervision by a  
23 physician licensed in Oklahoma to practice by the State Board of  
24 Medical Licensure and Supervision or the State Board of Osteopathic

1 Examiners. Such procedure shall include a written statement that  
2 defines appropriate referral, consultation, and collaboration  
3 between the ~~advanced practice nurse~~ Advanced Practice Registered  
4 Nurse, recognized to prescribe as defined in paragraphs 6 through 9,  
5 11 and 12 of Section 567.3a of this title, and the supervising  
6 physician. The written statement shall include a method of assuring  
7 availability of the supervising physician through direct contact,  
8 telecommunications or other appropriate electronic means for  
9 consultation, assistance with medical emergencies, or patient  
10 referral. The written statement shall be part of the initial  
11 application and the renewal application submitted to the Board for  
12 recognition for prescriptive authority for the ~~advanced practice~~  
13 ~~nurse~~ Advanced Practice Registered Nurse. Changes to the written  
14 statement shall be filed with the Board within thirty (30) days of  
15 the change and shall be effective on filing;

16 2. Define minimal requirements for initial application for  
17 prescriptive authority which shall include, but not be limited to,  
18 evidence of completion of a minimum of forty-five (45) contact hours  
19 or three (3) academic credit hours of education in  
20 pharmacotherapeutics, clinical application, and use of  
21 pharmacological agents in the prevention of illness, and in the  
22 restoration and maintenance of health in a program beyond basic  
23 registered nurse preparation, approved by the Board. Such contact  
24 hours or academic credits shall be obtained within a time period of

1 three (3) years immediately preceding the date of application for  
2 prescriptive authority;

3 3. Define minimal requirements for application for renewal of  
4 prescriptive authority which shall include, but not be limited to,  
5 documentation of a minimum of fifteen (15) contact hours or one (1)  
6 academic credit hour of education in pharmacotherapeutics, clinical  
7 application, and use of pharmacological agents in the prevention of  
8 illness, and in the restoration and maintenance of health in a  
9 program beyond basic registered nurse preparation, approved by the  
10 Board, within the two-year period immediately preceding the  
11 effective date of application for renewal of prescriptive authority;

12 4. Require that beginning July 1, 2002, an ~~advanced practice~~  
13 ~~nurse~~ Advanced Practice Registered Nurse shall demonstrate  
14 successful completion of a master's degree in a clinical nurse  
15 specialty in order to be eligible for initial application for  
16 prescriptive authority under the provisions of this act;

17 5. Define the method for communicating authority to prescribe  
18 or termination of same, and the formulary to the Board of Pharmacy,  
19 all pharmacies, and all registered pharmacists;

20 6. Define terminology used in such rules;

21 7. Define the parameters for the prescribing practices of the  
22 ~~advanced practice nurse~~ Advanced Practice Registered Nurse;

1        8. Define the methods for termination of prescriptive authority  
2 for ~~advanced practice nurses~~ the Advanced Practice Registered Nurse;  
3 and

4        9.    a.    Establish a Formulary Advisory Council that shall  
5                develop and submit to the Board recommendations for an  
6                exclusionary formulary that shall list drugs or  
7                categories of drugs that shall not be prescribed by  
8                ~~advanced practice nurses~~ Advanced Practice Registered  
9                Nurse recognized to prescribe by the Oklahoma Board of  
10               Nursing. The Formulary Advisory Council shall also  
11               develop and submit to the Board recommendations for  
12               practice-specific prescriptive standards for each  
13               category of ~~advanced practice nurse~~ Advanced Practice  
14               Registered Nurse recognized to prescribe by the  
15               Oklahoma Board of Nursing pursuant to the provisions  
16               of the Oklahoma Nursing Practice Act. The Board shall  
17               either accept or reject the recommendations made by  
18               the Council. No amendments to the recommended  
19               exclusionary formulary may be made by the Board  
20               without the approval of the Formulary Advisory  
21               Council.

22               b.    The Formulary Advisory Council shall be composed of  
23               twelve (12) members as follows:  
24

- 1 (1) four members, to include a pediatrician, an  
2 obstetrician-gynecological physician, a general  
3 internist, and a family practice physician;  
4 provided that three of such members shall be  
5 appointed by the Oklahoma State Medical  
6 Association, and one shall be appointed by the  
7 Oklahoma Osteopathic Association,
- 8 (2) four members who are registered pharmacists,  
9 appointed by the Oklahoma Pharmaceutical  
10 Association, and
- 11 (3) four members, one of whom shall be ~~an advanced~~  
12 ~~registered nurse practitioner~~ Certified Nurse  
13 Practitioner, one of whom shall be a ~~clinical~~  
14 ~~nurse specialist~~ Clinical Nurse Specialist, one  
15 of whom shall be a ~~certified nurse-midwife~~  
16 Certified Nurse-Midwife, and one of whom shall be  
17 a current member of the Oklahoma Board of  
18 Nursing, all of whom shall be appointed by the  
19 Oklahoma Board of Nursing.

20 c. All professional members of the Formulary Advisory  
21 Council shall be in active clinical practice, at least  
22 fifty percent (50%) of the time, within their defined  
23 area of specialty. The members of the Formulary  
24 Advisory Council shall serve at the pleasure of the

1           appointing authority for a term of three (3) years.

2           The terms of the members shall be staggered. Members  
3           of the Council may serve beyond the expiration of  
4           their term of office until a successor is appointed by  
5           the original appointing authority. A vacancy on the  
6           Council shall be filled for the balance of the  
7           unexpired term by the original appointing authority.

8           d. Members of the Council shall elect a chair and a vice-  
9           chair from among the membership of the Council. For  
10          the transaction of business, at least seven members,  
11          with a minimum of two members present from each of the  
12          identified categories of physicians, pharmacists and  
13          advanced practice registered nurses, shall constitute  
14          a quorum. The Council shall recommend and the Board  
15          shall approve and implement an initial exclusionary  
16          formulary on or before January 1, 1997. The Council  
17          and the Board shall annually review the approved  
18          exclusionary formulary and shall make any necessary  
19          revisions utilizing the same procedures used to  
20          develop the initial exclusionary formulary.

21          SECTION 3.           AMENDATORY           59 O.S. 2011, Section 567.8, as  
22          last amended by Section 2, Chapter 190, O.S.L. 2016 (59 O.S. Supp.  
23          2016, Section 567.8), is amended to read as follows:  
24

1       Section 576.8 A. The Oklahoma Board of Nursing shall have the  
2 power to take any or all of the following actions:

3       1. To deny, revoke or suspend any:

- 4           a. licensure to practice as a Licensed Practical Nurse,  
5               single-state or multistate,
- 6           b. licensure to practice as a Registered Nurse, single-  
7               state or multistate,
- 8           c. multistate privilege to practice in Oklahoma,
- 9           d. licensure to practice as an Advanced Practice  
10            Registered Nurse,
- 11           e. certification to practice as an Advanced Unlicensed  
12            Assistant,
- 13           f. authorization for prescriptive authority, or
- 14           g. authority to order, select, obtain and administer  
15            drugs;

16       2. To assess administrative penalties; and

17       3. To otherwise discipline applicants, licensees or Advanced  
18 Unlicensed Assistants.

19       B. The Board shall impose a disciplinary action against the  
20 person pursuant to the provisions of subsection A of this section  
21 upon proof that the person:

22       1. Is guilty of deceit or material misrepresentation in  
23 procuring or attempting to procure:  
24

1           a.    a license to practice registered nursing, licensed  
2               practical nursing, and/or ~~recognition~~ a license to  
3               practice advanced practice registered nursing with or  
4               without either prescriptive authority recognition or  
5               authorization to order, select, obtain and administer  
6               drugs, or

7           b.    certification as an Advanced Unlicensed Assistant;

8           2.    Is guilty of a felony, or any offense reasonably related to  
9               the qualifications, functions or duties of any licensee or Advanced  
10              Unlicensed Assistant, or any offense an essential element of which  
11              is fraud, dishonesty, or an act of violence, or for any offense  
12              involving moral turpitude, whether or not sentence is imposed, or  
13              any conduct resulting in the revocation of a deferred or suspended  
14              sentence or probation imposed pursuant to such conviction;

15          3.    Fails to adequately care for patients or to conform to the  
16              minimum standards of acceptable nursing or Advanced Unlicensed  
17              Assistant practice that, in the opinion of the Board, unnecessarily  
18              exposes a patient or other person to risk of harm;

19          4.    Is intemperate in the use of alcohol or drugs, which use the  
20              Board determines endangers or could endanger patients;

21          5.    Exhibits through a pattern of practice or other behavior  
22              actual or potential inability to practice nursing with sufficient  
23              knowledge or reasonable skills and safety due to impairment caused  
24              by illness, use of alcohol, drugs, chemicals or any other substance,

1 or as a result of any mental or physical condition, including  
2 deterioration through the aging process or loss of motor skills,  
3 mental illness, or disability that results in inability to practice  
4 with reasonable judgment, skill or safety; provided, however, the  
5 provisions of this paragraph shall not be utilized in a manner that  
6 conflicts with the provisions of the Americans with Disabilities  
7 Act;

8       6. Has been adjudicated as mentally incompetent, mentally ill,  
9 chemically dependent or dangerous to the public or has been  
10 committed by a court of competent jurisdiction, within or without  
11 this state;

12       7. Is guilty of unprofessional conduct as defined in the rules  
13 of the Board;

14       8. Is guilty of any act that jeopardizes a patient's life,  
15 health or safety as defined in the rules of the Board;

16       9. Violated a rule promulgated by the Board, an order of the  
17 Board, or a state or federal law relating to the practice of  
18 registered, practical or advanced practice registered nursing or  
19 advanced unlicensed assisting, or a state or federal narcotics or  
20 controlled dangerous substance law;

21       10. Has had disciplinary actions taken against the individual's  
22 registered or practical nursing license, advanced unlicensed  
23 assistive certification, or any professional or occupational  
24

1 license, registration or certification in this or any state,  
2 territory or country;

3 11. Has defaulted and/or been terminated from the peer  
4 assistance program for any reason;

5 12. Fails to maintain professional boundaries with patients, as  
6 defined in the Board rules; and/or

7 13. Engages in sexual misconduct, as defined in Board rules,  
8 with a current or former patient or key party, inside or outside the  
9 health care setting.

10 C. Any person who supplies the Board information in good faith  
11 shall not be liable in any way for damages with respect to giving  
12 such information.

13 D. The Board may cause to be investigated all reported  
14 violations of the Oklahoma Nursing Practice Act.

15 E. The Board may authorize the ~~executive director~~ Executive  
16 Director to issue a confidential letter of concern to a licensee  
17 when evidence does not warrant formal proceedings, but the Executive  
18 Director has noted indications of possible errant conduct that could  
19 lead to serious consequences and formal action.

20 F. All individual proceedings before the Board shall be  
21 conducted in accordance with the Administrative Procedures Act.

22 G. At a hearing the accused shall have the right to appear  
23 either personally or by counsel, or both, to produce witnesses and  
24 evidence on behalf of the accused, to cross-examine witnesses and to

1 have subpoenas issued by the designated Board staff. If the accused  
2 is found guilty of the charges the Board may refuse to issue a  
3 renewal of license to the applicant, revoke or suspend a license, or  
4 otherwise discipline a licensee.

5 H. A person whose license is revoked may not apply for  
6 reinstatement during the time period set by the Board. The Board on  
7 its own motion may at any time reconsider its action.

8 I. Any person whose license is revoked or who applies for  
9 renewal of registration and who is rejected by the Board shall have  
10 the right to appeal from such action pursuant to the Administrative  
11 Procedures Act.

12 J. 1. Any person who has been determined by the Board to have  
13 violated any provisions of the Oklahoma Nursing Practice Act or any  
14 rule or order issued pursuant thereto shall be liable for an  
15 administrative penalty not to exceed Five Hundred Dollars (\$500.00)  
16 for each count for which any holder of a certificate or license has  
17 been determined to be in violation of the Oklahoma Nursing Practice  
18 Act or any rule promulgated or order issued pursuant thereto.

19 2. The amount of the penalty shall be assessed by the Board  
20 pursuant to the provisions of this section, after notice and an  
21 opportunity for hearing is given to the accused. In determining the  
22 amount of the penalty, the Board shall include, but not be limited  
23 to, consideration of the nature, circumstances, and gravity of the  
24 violation and, with respect to the person found to have committed

1 the violation, the degree of culpability, the effect on ability of  
2 the person to continue to practice, and any show of good faith in  
3 attempting to achieve compliance with the provisions of the Oklahoma  
4 Nursing Practice Act.

5 K. The Board shall retain jurisdiction over any person issued a  
6 license, certificate or temporary license pursuant to this act,  
7 regardless of whether the license, certificate or temporary license  
8 has expired, lapsed or been relinquished during or after the alleged  
9 occurrence or conduct prescribed by this act.

10 L. In the event disciplinary action is imposed, any person so  
11 disciplined shall be responsible for any and all costs associated  
12 with satisfaction of the discipline imposed.

13 M. In the event disciplinary action is imposed in an  
14 administrative proceeding, the Board shall have the authority to  
15 recover the monies expended by the Board in pursuing any  
16 disciplinary action, including but not limited to costs of  
17 investigation, probation or monitoring fees, administrative costs,  
18 witness fees, attorney fees and court costs. This authority shall  
19 be in addition to the Board's authority to impose discipline as set  
20 out in subsection A of this section.

21 N. The Executive Director shall immediately suspend the license  
22 of any person upon proof that the person has been sentenced to a  
23 period of continuous incarceration serving a penal sentence for  
24 commission of a misdemeanor or felony. The suspension shall remain

1 in effect until the Board acts upon the licensee's written  
2 application for reinstatement of the license.

3 O. When a majority of the officers of the Board, which  
4 constitutes the President, Vice-President and Secretary/Treasurer,  
5 find that preservation of the public health, safety or welfare  
6 requires immediate action, summary suspension of licensure or  
7 certification may be ordered before the filing of a sworn complaint  
8 or at any other time before the outcome of an individual proceeding.  
9 Within seven (7) days after the summary suspension, the licensee  
10 shall be notified by letter that summary suspension has occurred.  
11 The summary suspension letter shall include notice of the date of  
12 the proposed hearing to be held in accordance with Oklahoma  
13 Administrative Code 485:10-11-2 and the Administrative Procedures  
14 Act, within ninety (90) days of the date of the summary suspension  
15 letter, and shall be signed by one of the Board officers.

16 SECTION 4. AMENDATORY 59 O.S. 2011, Section 567.17, as  
17 amended by Section 4, Chapter 190, O.S.L. 2016 (59 O.S. Supp. 2016,  
18 Section 567.17), is amended to read as follows:

19 Section 576.17 A. There is hereby established a peer  
20 assistance program to rehabilitate nurses whose competency may be  
21 compromised because of the abuse of drugs or alcohol, so that such  
22 nurses can be treated and can return to or continue the practice of  
23 nursing in a manner which will benefit the public. The program  
24

1 shall be under the supervision and control of the Oklahoma Board of  
2 Nursing.

3 B. The Board shall appoint one or more peer assistance  
4 evaluation advisory committees hereinafter called the "peer  
5 assistance committees". Each of these committees shall be composed  
6 of members, the majority of which shall be licensed nurses with  
7 expertise in chemical dependency. The peer assistance committees  
8 shall function under the authority of the Oklahoma Board of Nursing  
9 in accordance with the rules of the Board. The committee members  
10 shall serve without pay, but may be reimbursed for the expenses  
11 incurred in the discharge of their official duties in accordance  
12 with the State Travel Reimbursement Act.

13 C. The Board shall appoint and employ a qualified person, who  
14 shall be a registered nurse, to serve as program coordinator and  
15 shall fix such person's compensation. The Board shall define the  
16 duties of the program coordinator who shall report directly to the  
17 Executive Director of the Board and be subject to the Executive  
18 Director's direction and control.

19 D. The Board is authorized to adopt and revise rules, not  
20 inconsistent with the Oklahoma Nursing Practice Act, as may be  
21 necessary to enable it to carry into effect the provisions of this  
22 section.

1 E. A portion of licensing fees for each nurse not to exceed Ten  
2 Dollars (\$10.00) may be used to implement and maintain the peer  
3 assistance program.

4 F. Records of the nurse enrolled in the peer assistance program  
5 shall be maintained in the program office in a place separate and  
6 apart from the Board's records. The records shall be made public  
7 only by subpoena and court order; provided, however, confidential  
8 treatment shall be canceled upon default by the nurse in complying  
9 with the requirements of the program.

10 G. Any person making a report to the Board or to a peer  
11 assistance committee regarding a nurse suspected of practicing  
12 nursing while habitually intemperate or addicted to the use of  
13 habit-forming drugs, or a nurse's progress or lack of progress in  
14 rehabilitation, shall be immune from any civil or criminal action  
15 resulting from such reports, provided such reports are made in good  
16 faith.

17 H. A nurse's participation in the peer assistance program in no  
18 way precludes additional proceedings by the Board for acts or  
19 omissions of acts not specifically related to the circumstances  
20 resulting in the nurse's entry into the program. However, in the  
21 event the nurse defaults from the program, the Board may discipline  
22 the nurse for those acts which led to the nurse entering the  
23 program.

1 I. The Executive Director of the Board shall suspend the  
2 license of a licensee who applied and entered the peer assistance  
3 program by choice without any order by the Board immediately upon  
4 notification that the licensee has defaulted from the peer  
5 assistance program, and shall assign a hearing date for the matter  
6 to be presented to the Board. A licensee who was directed to apply  
7 and enter the peer assistance program by an order of the Board and  
8 who does not enter or who defaults from the peer assistance program  
9 for any reason shall be disciplined as set forth in the order of the  
10 Board that directed the nurse to apply and enter the peer assistance  
11 program.

12 J. Any person who enters the peer assistance program  
13 voluntarily or otherwise shall be responsible for any and all costs  
14 associated with participation in the peer assistance program.

15 K. A nurse may apply to participate in the peer assistance  
16 program by choice or may be directed to apply to the program by an  
17 order of the Board. In either case, conditions shall be placed on  
18 the nurse's license to practice nursing during the period of  
19 participation in the peer assistance program.

20 L. ~~As used in this section~~ With regards to the peer assistance  
21 program, unless the context otherwise requires:

- 22 1. "Board" means the Oklahoma Board of Nursing; ~~and~~  
23 2. "Peer assistance committee" means the peer assistance  
24 evaluation advisory committee created in this section, which is

1 appointed by the Oklahoma Board of Nursing to carry out specified  
2 duties; and

3 3. "Default" means the licensee has failed to comply with the  
4 contract and/or amended contracts and/or treatment plans, as  
5 determined by the peer assistance committee, and/or has been  
6 terminated from the peer assistance program as defined in Board  
7 rules.

8 SECTION 5. AMENDATORY Section 9, Chapter 190, O.S.L.  
9 2016 (59 O.S. Supp. 2016, Section 567.25), is amended to read as  
10 follows:

11 Section 567.25 A. In reporting information to the coordinated  
12 licensure information system under Article 6 of the Nurse Licensure  
13 Compact, the Oklahoma Board of Nursing may disclose information that  
14 identifies a person, including Social Security number and date of  
15 birth.

16 B. The coordinated licensure information system may not share  
17 ~~information that identifies a person~~ Social Security numbers and  
18 dates of birth with a state not a party to the Compact ~~unless the~~  
19 ~~state agrees not to disclose that information to other persons.~~

20 SECTION 6. This act shall become effective November 1, 2017.

21  
22 56-1-6944 MAH 02/16/17  
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