

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 COMMITTEE SUBSTITUTE

4 FOR

5 SENATE BILL 1353

6 By: Yen

7 COMMITTEE SUBSTITUTE

8 An Act relating to provisionally licensed physicians;  
9 defining terms; providing for scope of practice;  
10 directing the State Board of Medical Licensure and  
11 Supervision and the State Board of Osteopathic  
12 Examiners to promulgate certain rules; specifying  
13 professional terms; requiring collaborative practice  
14 arrangement; setting forth provisions related to  
15 collaborative practice arrangements; providing  
16 certain exemption; specifying criteria to be included  
17 in arrangements; providing for promulgation of  
18 certain rules and approval of rules; prohibiting  
19 certain disciplinary action under certain  
20 circumstances; setting certain limitation on  
21 arrangements; requiring disclosure of certain  
22 information related to arrangements; requiring  
23 certain documentation; providing certain  
24 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 1. "Graduate of a school or college of osteopathic medicine"  
2 means any person who has graduated from a school or college of  
3 osteopathic medicine as defined in this section;

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

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

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

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

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

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

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

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

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

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

10 d. has proficiency in the English language;

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

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

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

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

1 of successful completion of the curriculum and  
2 recommendation for graduation.

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

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

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

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

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

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

14 E. The provisions of Section 3 of this act shall apply to all  
15 provisionally licensed physician collaborative practice  
16 arrangements. To be eligible to practice as a provisionally  
17 licensed physician, a provisionally licensed physician shall enter  
18 into a provisionally licensed physician collaborative practice  
19 arrangement within six (6) months of his or her initial licensure  
20 and shall not have more than a six-month time period between  
21 collaborative practice arrangements during his or her licensure  
22 period. Any renewal of licensure pursuant to this section shall  
23 include verification of actual practice under a collaborative  
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1 practice arrangement in accordance with this subsection during the  
2 immediately preceding licensure period.

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

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

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

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

14 A. A physician may enter into collaborative practice  
15 arrangements with provisionally licensed physicians. Collaborative  
16 practice arrangements shall be in the form of written agreements,  
17 jointly agreed-upon protocols or standing orders for the delivery of  
18 health care services. Collaborative practice arrangements, which  
19 shall be in writing, may delegate to a provisionally licensed  
20 physician the authority to administer and dispense drugs and provide  
21 treatment as long as the delivery of such health care services is  
22 within the scope of practice of the provisionally licensed physician  
23 and is consistent with that provisionally licensed physician's  
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1 skill, training and competence and the skill and training of the  
2 collaborating physician.

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

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

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

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

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

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

- 1 a. engage in collaborative practice consistent with each  
2 professional's skill, training, education and  
3 competence;
- 4 b. maintain geographic proximity; provided, the  
5 collaborative practice arrangement may allow for  
6 geographic proximity to be waived for a maximum of  
7 twenty-eight (28) calendar days per calendar year for  
8 rural health clinics as defined by P.L. 95-210, as  
9 long as the collaborative practice arrangement  
10 includes alternative plans as required in subparagraph  
11 c of this paragraph. Such exception to geographic  
12 proximity shall apply only to independent rural health  
13 clinics, provider-based rural health clinics if the  
14 provider is a critical access hospital as provided in  
15 42 U.S.C. Section 1395i-4 and provider-based rural  
16 health clinics if the main location of the hospital  
17 sponsor is not less than fifty (50) miles from the  
18 clinic. The collaborating physician shall maintain  
19 documentation related to such requirement and present  
20 it to the Board of Medical Licensure and Supervision  
21 or the State Board of Osteopathic Examiners, as  
22 appropriate, when requested; and
- 23 c. provide coverage during absence, incapacity, infirmity  
24 or emergency by the collaborating physician;

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

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

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

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

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

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

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

8 1. Geographic areas to be covered;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Enforcement Administration registration number on prescriptions for  
2 controlled substances.

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

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

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

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