

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 1281

By: McCortney and Pittman of
the Senate

and

Ritze of the House

10 COMMITTEE SUBSTITUTE

11 An Act relating to professions and occupations;
12 amending 59 O.S. 2011, Section 487, which relates to
13 secretary; authorizing State Board of Medical
14 Licensure and Supervision to hire physician as
15 Medical Advisor; amending 59 O.S. 2011, Section 488,
16 which relates to meetings of Board; modifying
17 terminology; making language gender-neutral; making
18 certain meetings not required; amending 59 O.S. 2011,
19 Section 495a.1, which relates to license
20 registration; directing Board to promulgate certain
21 rules; setting certain fine; amending 59 O.S. 2011,
22 Section 503, as amended by Section 1, Chapter 176,
23 O.S.L 2014 (59 O.S. Supp. 2017, Section 503), which
24 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

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

24
BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

Section 487. A. The State Board of Medical Licensure and
Supervision may appoint the secretary to serve as Medical Advisor or
hire a physician as Medical Advisor to the Board and the Board
staff. The Board may hire the secretary as an employee of the Board
at such hours of employment and compensation as determined by the
Board. The Board may hire a licensed allopathic physician to serve
as the secretary- or medical advisor, or both, to the Board and its

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

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

- 10 1. Age;
- 11 2. Ethnic origin;
- 12 3. Sex;
- 13 4. Place of practice and residence;
- 14 5. The time spent in premedical and medical study, together
15 with the names of the schools attended, and the date of graduation
16 therefrom, with the degrees granted;
- 17 6. The grades made in examination for license or grades filed
18 in application therefor; and
- 19 7. A record of the final disposition of each application for
20 licensure.

21 The secretary of the Board shall, on or before the first day of
22 May in each year, transmit an official copy of said register for the
23 preceding calendar year, to the Secretary of State for permanent
24

1 record, a certified copy of which shall be admitted as evidence in
2 all courts of the state.

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

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

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

1 C. No meeting of an Advisory Committee under the jurisdiction
2 of the Board under this title shall be required for the
3 determination of the qualifications of an applicant for a license.
4 Each member of the Advisory Committee authorized to make
5 recommendations on licensure may review the qualifications of the
6 applicant during times other than when a regular or special Advisory
7 Committee meeting is held, to determine the sufficiency of the
8 qualifications. Each member of the Advisory Committee shall notify
9 the Board Secretary of his or her recommendations, in writing. The
10 provisions of this subsection shall not be construed to prohibit the
11 Advisory Committee from reviewing the qualifications of an applicant
12 for licensure during any regular or special meeting of the Advisory
13 Committee.

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

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

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 or her counsel or at the request of the
7 attorney for the state, unless the record of the case, either orally
8 or in writing, sets forth a finding that the ends of justice served
9 by the granting of such continuance outweigh the best interest of
10 the public and the defendant in a speedy hearing. The defendant
11 shall file a written answer under oath with the secretary of the
12 Board within twenty (20) calendar days after the service of the
13 citation, exclusive of the day of service. The secretary of the
14 Board may extend the time of answer upon satisfactory showing that
15 the defendant is for reasonable cause unable to answer within the
16 twenty (20) calendar days exclusive of the day of service, but in no
17 case 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.
24

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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5 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 04/04/2018 -
6 DO PASS, As Amended and Coauthored.

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