

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. 1353

By: Yen of the Senate

and

Dunnington of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to provisionally licensed physicians;
12 defining terms; providing for scope of practice;
13 directing the State Board of Medical Licensure and
14 Supervision and the State Board of Osteopathic
15 Examiners to promulgate certain rules; specifying
16 professional terms; requiring collaborative practice
17 arrangement; setting forth provisions related to
18 collaborative practice arrangements; providing
19 certain exemption; specifying criteria to be included
20 in arrangements; providing for promulgation of
21 certain rules and approval of rules; prohibiting
22 certain disciplinary action under certain
23 circumstances; setting certain limitation on
24 arrangements; requiring disclosure of certain
 information related to arrangements; requiring
 certain documentation; providing certain
 construction; requiring identification badges;
 setting forth provisions related to prescriptive
 authority of certain controlled substances; providing
 for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 479.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Graduate of an Oklahoma school or college of osteopathic medicine" means any person who has graduated from an Oklahoma school or college of osteopathic medicine as defined in this section;

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

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

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

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

b. (1) has successfully completed Step 1 and Step 2 of the United States Medical Licensing Examination or the equivalent of such steps of any other medical licensing examination approved by the Board of Medical Licensure and Supervision within the two-year period immediately preceding application for licensure as a provisionally

1 licensed physician, but in no event more than
2 three (3) years after graduation from a medical
3 school, or

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

15 c. (1) has not completed an approved postgraduate
16 residency and has successfully completed Step 2
17 of the United States Medical Licensing
18 Examination or the equivalent of such step of any
19 other medical licensing examination approved by
20 the Board of Medical Licensure and Supervision
21 within the immediately preceding two-year period
22 unless when such two-year anniversary occurred he
23 or she was serving as a resident physician in an
24 accredited residency in the United States and

1 continued to do so within thirty (30) calendar
2 days prior to application for licensure as a
3 provisionally licensed physician, or

4 (2) has not completed an approved postgraduate
5 residency and has successfully completed Level 2
6 of the Comprehensive Osteopathic Medical
7 Licensing Examination of the United States or the
8 equivalent of such step of any other medical
9 licensing examination approved by the State Board
10 of Osteopathic Examiners within the immediately
11 preceding two-year period unless when such two-
12 year anniversary occurred he or she was serving
13 as a resident physician in an accredited
14 residency in the United States and continued to
15 do so within thirty (30) calendar days prior to
16 application for licensure as a provisionally
17 licensed physician, and

18 d. has proficiency in the English language;

19 5. "Provisionally licensed physician collaborative practice
20 arrangement" means an agreement between a physician and a
21 provisionally licensed physician that meets the requirements of this
22 act; and
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1 6. "Oklahoma school or college of osteopathic medicine" means a
2 legally chartered and accredited school or college of osteopathic
3 medicine located in this state requiring:

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

8 b. for granting the D.O. degree, Doctor of Osteopathy or
9 Doctor of Osteopathic Medicine, actual attendance at
10 such osteopathic school or college and demonstration
11 of successful completion of the curriculum and
12 recommendation for graduation.

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

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

19 B. The licensure of provisionally licensed physicians shall
20 take place within processes established by rules of the Board of
21 Medical Licensure and Supervision or of the State Board of
22 Osteopathic Examiners, as appropriate. The Board of Medical
23 Licensure and Supervision and the State Board of Osteopathic
24 Examiners shall promulgate rules establishing licensure and renewal

1 procedures, supervision, collaborative practice arrangements, fees
2 and addressing such other matters as are necessary to protect the
3 public and discipline the profession. An application for licensure
4 may be denied or the licensure of a provisionally licensed physician
5 may be suspended or revoked by the Board of Medical Licensure and
6 Supervision or by the State Board of Osteopathic Examiners, as
7 appropriate, in the same manner and for violation of the standards
8 as set forth by the Oklahoma Allopathic Medical and Surgical
9 Licensure and Supervision Act or the Oklahoma Osteopathic Medicine
10 Act, or such other standards of conduct set by the Board of Medical
11 Licensure and Supervision or the State Board of Osteopathic
12 Examiners, as appropriate, by rule.

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

20 D. The collaborating physician is responsible at all times for
21 the oversight of the activities of and accepts responsibility for
22 primary care services rendered by the provisionally licensed
23 physician.
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1 E. The provisions of Section 3 of this act shall apply to all
2 provisionally licensed physician collaborative practice
3 arrangements. To be eligible to practice as a provisionally
4 licensed physician, a provisionally licensed physician shall enter
5 into a provisionally licensed physician collaborative practice
6 arrangement within six (6) months of his or her initial licensure
7 and shall not have more than a six-month time period between
8 collaborative practice arrangements during his or her licensure
9 period. Any renewal of licensure pursuant to this section shall
10 include verification of actual practice under a collaborative
11 practice arrangement in accordance with this subsection during the
12 immediately preceding licensure period.

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

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

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

21 SECTION 3. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 479.3 of Title 59, unless there
23 is created a duplication in numbering, reads as follows:
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1 A. A physician may enter into collaborative practice
2 arrangements with provisionally licensed physicians. Collaborative
3 practice arrangements shall be in the form of written agreements,
4 jointly agreed-upon protocols or standing orders for the delivery of
5 health care services. Collaborative practice arrangements, which
6 shall be in writing, may delegate to a provisionally licensed
7 physician the authority to administer and dispense drugs and provide
8 treatment as long as the delivery of such health care services is
9 within the scope of practice of the provisionally licensed physician
10 and is consistent with that provisionally licensed physician's
11 skill, training and competence and the skill and training of the
12 collaborating physician.

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

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

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

22 3. A requirement that there shall be posted at every office
23 where the provisionally licensed physician is authorized to
24 prescribe, in collaboration with a physician, a prominently

1 displayed disclosure statement informing patients that they may be
2 seen by a provisionally licensed physician and have the right to see
3 the collaborating physician;

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

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

- 11 a. engage in collaborative practice consistent with each
12 professional's skill, training, education and
13 competence,
- 14 b. maintain geographic proximity; provided, the
15 collaborative practice arrangement may allow for
16 geographic proximity to be waived for a maximum of
17 twenty-eight (28) calendar days per calendar year for
18 rural health clinics as defined by P.L. 95-210, as
19 long as the collaborative practice arrangement
20 includes alternative plans as required in subparagraph
21 c of this paragraph. Such exception to geographic
22 proximity shall apply only to independent rural health
23 clinics, provider-based rural health clinics if the
24 provider is a critical access hospital as provided in

1 42 U.S.C. Section 1395i-4 and provider-based rural
2 health clinics if the main location of the hospital
3 sponsor is not less than fifty (50) miles from the
4 clinic. The collaborating physician shall maintain
5 documentation related to such requirement and present
6 it to the Board of Medical Licensure and Supervision
7 or the State Board of Osteopathic Examiners, as
8 appropriate, when requested, and

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

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

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

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

21 9. A description of the time and manner of the collaborating
22 physician's review of the provisionally licensed physician's
23 delivery of health care services. The description shall include
24 provisions that the provisionally licensed physician shall submit a

1 minimum of ten percent (10%) of the charts documenting the
2 provisionally licensed physician's delivery of health care services
3 to the collaborating physician for review by the collaborating
4 physician, or any other physician designated in the collaborative
5 practice arrangement, every fourteen (14) calendar days; and

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

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

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

18 1. Geographic areas to be covered;

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

21 3. In conjunction with deans of medical schools and primary
22 care residency program directors in the state, the development and
23 implementation of educational methods and programs undertaken during
24 the collaborative practice service which shall facilitate the

1 advancement of the provisionally licensed physician's medical
2 knowledge and capabilities, and which may lead to credit toward a
3 future residency program for programs that deem such documented
4 educational achievements acceptable; and

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

8 D. Any rules relating to dispensing or distribution of
9 medications or devices by prescription or prescription drug orders
10 pursuant to this section shall be subject to the approval of the
11 State Board of Pharmacy. Any rules relating to dispensing or
12 distribution of controlled substances by prescription or
13 prescription drug orders pursuant to this section shall be subject
14 to the approval of the State Department of Health and the State
15 Board of Pharmacy. The Board of Medical Licensure and Supervision
16 and the State Board of Osteopathic Examiners shall promulgate rules
17 applicable to provisionally licensed physicians that shall be
18 consistent with guidelines for federally funded clinics.

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

1 F. Within thirty (30) calendar days of any change and on each
2 renewal, the Board of Medical Licensure and Supervision or the State
3 Board of Osteopathic Examiners, as appropriate, shall require every
4 physician to identify whether the physician is engaged in any
5 collaborative practice arrangement, including but not limited to
6 collaborative practice arrangements delegating the authority to
7 prescribe controlled substances, and also report to the Board of
8 Medical Licensure and Supervision or the State Board of Osteopathic
9 Examiners, as appropriate, the name of each provisionally licensed
10 physician with whom the physician has entered into such arrangement.
11 The Board of Medical Licensure and Supervision and the State Board
12 of Osteopathic Examiners may make such information available to the
13 public. The Board of Medical Licensure and Supervision and the
14 State Board of Osteopathic Examiners shall track the reported
15 information and may routinely conduct random reviews of such
16 arrangements to ensure that arrangements are carried out for
17 compliance pursuant to this section.

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

21 H. The collaborating physician shall determine and document the
22 completion of at least a thirty-calendar-day period of time during
23 which the provisionally licensed physician shall practice with the
24 collaborating physician continuously present before practicing in a

1 setting where the collaborating physician is not continuously
2 present.

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

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

22 K. No contract or other agreement shall require any
23 provisionally licensed physician to serve as a collaborating
24 provisionally licensed physician for any collaborating physician

1 against the provisionally licensed physician's will. A
2 provisionally licensed physician shall have the right to refuse to
3 collaborate, without penalty, with a particular physician.

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

10 M. 1. A provisionally licensed physician with a certificate of
11 controlled substance prescriptive authority as provided in this
12 section may prescribe any controlled substance listed in Schedule
13 III, IV or V of the Uniform Controlled Dangerous Substances Act and
14 may have restricted authority in Schedule II, when delegated the
15 authority to prescribe controlled substances in a collaborative
16 practice arrangement. Prescriptions for Schedule II medications
17 prescribed by a provisionally licensed physician who has a
18 certificate of controlled substance prescriptive authority are
19 restricted to only those medications containing hydrocodone. Such
20 authority shall be filed with the Board of Medical Licensure and
21 Supervision or the State Board of Osteopathic Examiners, as
22 appropriate. The collaborating physician shall maintain the right
23 to limit a specific scheduled drug or scheduled drug category that
24 the provisionally licensed physician is permitted to prescribe. Any

1 limitations shall be listed in the collaborative practice
2 arrangement. Provisionally licensed physicians shall not prescribe
3 controlled substances for themselves or members of their families.
4 Schedule III controlled substances and Schedule II hydrocodone
5 prescriptions shall be limited to a five-day supply without refill.
6 Provisionally licensed physicians who are authorized to prescribe
7 controlled substances under this section shall register with the
8 federal Drug Enforcement Administration and the Oklahoma Bureau of
9 Narcotics and Dangerous Drugs, and shall include the Drug
10 Enforcement Administration registration number on prescriptions for
11 controlled substances.

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

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

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

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