

1 **SENATE FLOOR VERSION**

2 February 19, 2018

3 SENATE BILL NO. 1281

By: McCortney

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5
6 An Act relating to professions and occupations;
7 amending 59 O.S. 2011, Section 487, which relates to
8 secretary; authorizing Board of Medical Licensure and
9 Supervision to hire physician as Medical Advisor;
10 amending 59 O.S. 2011, Section 488, which relates to
11 Meetings of Board; modifying terminology; making
12 language gender-neutral; making certain meetings not
13 required; amending 59 O.S. 2011, Section 495a.1,
14 which relates to license registration; directing
15 Board to promulgate certain rules; setting certain
16 fine; amending 59 O.S. 2011, Section 503, as amended
17 by Section 1, Chapter 176, O.S.L 2014 (59 O.S. Supp.
18 2017, Section 503), which relates to sanctions for
19 unprofessional conduct; modifying procedure pursuant
20 to sanctions; amending 59 O.S. 2011, Section 503.1,
21 which relates to emergency suspension of licensure;
22 modifying conditions under which Board may suspend
23 license; amending 59 O.S. 2011, Section 505, which
24 relates to the state as party to actions; deleting
certain authority of Attorney General; 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 512), which relates
to salary of secretary; requiring certain
investigators to be certified peace officers;
requiring investigators to perform certain duties;
requiring licensees to cooperate with investigators;
broadening services the Board may contract to
perform; amending 59 O.S. 2011, Section 513, which
relates to quasi-judicial powers of Board; modifying
conditions under which the Board shall revoke a
license; amending 59 O.S. 2011, Section 518.1, which

1 relates to Allied Professional Peer Assistance
2 Program; authorizing Board to employ director, fix
3 salary and define duties of director; authorizing
4 program to contract with outside entities for certain
5 services; requiring contracts to be ratified by
6 Board; amending 74 O.S. 2011, Section 18c, as last
7 amended by Section 1, Chapter 31, O.S.L. 2016 (74
8 O.S. Supp. 2017, Section 18c), which relates to
9 employment of attorneys; providing certain exemption;
10 and providing an effective date.

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

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

14 Section 487. A. The State Board of Medical Licensure and
15 Supervision may appoint the secretary to serve as Medical Advisor or
16 hire a physician as Medical Advisor to the Board and the Board
17 staff. The Board may hire the secretary as an employee of the Board
18 at such hours of employment and compensation as determined by the
19 Board. The Board may hire a licensed allopathic physician to serve
20 as the secretary- or medical advisor, or both, to the Board and its
21 staff. This position shall be in the exempt unclassified service,
22 as provided for in subsection B of Section 840-5.5 of Title 74 of
23 the Oklahoma Statutes. The secretary shall not be a member of the
24 Board and shall not vote on Board actions.

25 B. The secretary of the Board shall preserve a true record of
26 the official proceedings of the meetings of the Board. He or she
27 shall also preserve a record of physicians licensed, applying for

1 such license or applying for reinstatement of such license in this
2 state showing:

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

14 The secretary of the Board shall, on or before the first day of
15 May in each year, transmit an official copy of said register for the
16 preceding calendar year, to the Secretary of State for permanent
17 record, a certified copy of which shall be admitted as evidence in
18 all courts of the state.

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

21 Section 488. A. The Board may hold regular meetings at times
22 to be fixed by the president and secretary of the Board in
23 accordance with the provisions of the Oklahoma Open Meeting Act. In
24 addition, the president and secretary may call such special and

1 other meetings in accordance with the provisions of the Oklahoma
2 Open Meeting Act. A majority of the members of the Board shall
3 constitute a quorum for the transaction of business but a less
4 number may adjourn from time to time until a quorum is present.

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

17 C. No meeting of an Advisory Committee under the jurisdiction
18 of the Board under this title shall be required for the
19 determination of the qualifications of an applicant for a license.
20 Each member of the Advisory Committee authorized to make
21 recommendations on licensure may review the qualifications of the
22 applicant during times other than when a regular or special Advisory
23 Committee meeting is held, to determine the sufficiency of the
24 qualifications. Each member of the Advisory Committee shall notify

1 the Board Secretary of his or her recommendations, in writing. The
2 provisions of this subsection shall not be construed to prohibit the
3 Advisory Committee from reviewing the qualifications of an applicant
4 for licensure during any regular or special meeting of the Advisory
5 Committee.

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

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

17 1. Any action taken against the licensee for acts or conduct
18 similar to acts or conduct described in this act as grounds for
19 disciplinary action by:

- 20 a. any jurisdiction or authority (United States or
21 foreign) that licenses or authorizes the practice of
22 medicine and surgery,
- 23 b. any peer review body,
- 24 c. any health care institution,

- d. any professional medical society or association,
- e. any law enforcement agency,
- f. any court, or
- g. any governmental agency;

2. Any adverse judgment, settlement, or award against the licensee arising from a professional liability claim;

3. The licensee's voluntary surrender of or voluntary limitation on any license or authorization to practice medicine and surgery in any jurisdiction, including military, public health and foreign;

4. Any denial to the licensee of a license or authorization to practice medicine and surgery by any jurisdiction, including military, public health or foreign;

5. The licensee's voluntary resignation from the medical staff of any health care institution or voluntary limitation of the licensee's staff privileges at such an institution if that action occurred while the licensee was under formal or informal investigation by the institution or a committee thereof for any reason related to alleged medical incompetence, unprofessional conduct, or mental or physical impairment;

6. The licensee's voluntary resignation or withdrawal from a national, state, or county medical society, association, or organization if that action occurred while the licensee was under formal or informal investigation or review by that body for any

1 reason related to possible medical incompetence, unprofessional or
2 unethical conduct, or mental or physical impairment;

3 7. Whether the licensee has abused or has been addicted to or
4 treated for addiction to alcohol or any chemical substance during
5 the previous registration period, unless such person is in a
6 rehabilitation program approved by the Board;

7 8. Whether the licensee has had any physical injury or disease
8 or mental illness during the previous registration period that
9 affected or interrupted his or her practice of medicine and surgery;
10 and

11 9. The licensee's completion of continuing medical education or
12 other forms of professional maintenance and/or evaluation, including
13 specialty board certification or recertification, during the
14 previous registration period.

15 B. The Board may require continuing medical education for
16 license reregistration and require documentation of that education.
17 The Board shall promulgate rules on the specific requirements of the
18 amount of continuing medical education needed for reregistration.
19 Failure to meet the requirements in the allotted time may result in
20 the licensee being required to pay a nondisciplinary fine by the
21 Board Secretary of up to but not more than One Thousand Dollars
22 (\$1,000.00).

23 C. The licensee shall sign and attest to the veracity of the
24 application form for license reregistration. Failure to report

1 fully and correctly shall be grounds for disciplinary action by the
2 Board.

3 D. The Board shall establish a system for reviewing
4 reregistration forms. The Board may initiate investigations and
5 disciplinary proceedings based on information submitted by licensees
6 for license reregistration.

7 E. Upon a finding by the Board that the licensee is fit to
8 continue to practice medicine and surgery in this state, the Board
9 shall issue to the licensee a license to practice medicine and
10 surgery during the next registration period.

11 SECTION 4. AMENDATORY 59 O.S. 2011, Section 503, as
12 amended by Section 1, Chapter 176, O.S.L. 2014 (59 O.S. Supp. 2017,
13 Section 503), is amended to read as follows:

14 Section 503. The State Board of Medical Licensure and
15 Supervision may suspend, revoke or order any other appropriate
16 sanctions against the license of any physician or surgeon holding a
17 license to practice in this state for unprofessional conduct, but no
18 such suspension, revocation or other penalty shall be made until the
19 licensee is cited to appear for hearing. No such citation shall be
20 issued except upon sworn complaint filed with the secretary of the
21 Board charging the licensee with having been guilty of
22 unprofessional conduct and setting forth the particular act or acts
23 alleged to constitute unprofessional conduct. In the event it comes
24 to the attention of the Board that a violation of the rules of

1 professional conduct may have occurred, even though a formal
2 complaint or charge may not have been filed, the Board staff may
3 conduct an investigation of the possible violation, and may upon its
4 own motion institute a formal complaint. In the course of the
5 investigation persons appearing before the Board may be required to
6 testify under oath. Upon the filing of a complaint, either by an
7 individual or the Board staff as provided herein, the citation must
8 forthwith be issued by the secretary of the Board over the signature
9 of the secretary and seal of the Board, setting forth the complaint
10 of unprofessional conduct, and giving due notice of the time and
11 place of the hearing by the Board. ~~The citation shall be made~~
12 ~~returnable at the next regular meeting of the Board occurring at~~
13 ~~least thirty (30) days after the service of the citation. In any~~
14 case in which a physician disputes allegations made in a complaint,
15 the matter shall be set and heard by the Board at the next regular
16 meeting of the Board occurring at least thirty (30) calendar days
17 after the day of service of the citation, exclusive of the day of
18 service, but will be heard not later than the next regular meeting
19 of the Board occurring after ninety (90) calendar days after service
20 of the citation, exclusive of the day of service. No continuance
21 may be granted by the Board on its own motion or at the request of
22 the defendant or his counsel or at the request of the attorney for
23 the state, unless the record of the case, either orally or in
24 writing, sets forth a finding that the ends of justice served by the

1 granting of such continuance outweigh the best interest of the
2 public and the defendant in a speedy hearing. The defendant shall
3 file a written answer under oath with the secretary of the Board
4 within twenty (20) calendar days after the service of the citation,
5 exclusive of the day of service. The secretary of the Board may
6 extend the time of answer upon satisfactory showing that the
7 defendant is for reasonable cause unable to answer within the twenty
8 (20) calendar days exclusive of the day of service, but in no case
9 shall the time be extended beyond the date of the next regular
10 meeting of the Board, unless a continuance is granted by the Board.

11 SECTION 5. AMENDATORY 59 O.S. 2011, Section 503.1, is
12 amended to read as follows:

13 Section 503.1. The Secretary of the Board, upon concurrence of
14 the President of the Board that an emergency exists for which the
15 immediate suspension of a license is imperative for the public
16 health, safety and welfare, may conduct a hearing as contemplated by
17 Section 314 of Title 75 of the Oklahoma Statutes ~~to~~ and may, upon
18 probable cause, suspend temporarily the license of any person under
19 the jurisdiction of the Board.

20 SECTION 6. AMENDATORY 59 O.S. 2011, Section 505, is
21 amended to read as follows:

22 Section 505. It is hereby provided that the State of Oklahoma
23 is a proper and necessary party in the prosecution of all such
24 actions and hearings before the Board in all matters pertaining to

1 unprofessional conduct under the contemplation of this act, ~~and the~~
2 ~~Attorney General of the state, in person, or by deputy, is~~
3 ~~authorized and directed to appear in behalf thereof and the.~~ The
4 defendant in such action shall have the right to be represented by
5 counsel. The Board shall sit as a trial body and the rulings of the
6 president thereof in all questions shall be the rulings of the
7 Board, unless reversed by a majority vote of the Board upon appeal
8 thereto from such rulings of the president. The secretary shall
9 preserve a record of all proceedings in such hearings and shall
10 furnish a transcript thereof to the defendant upon request therefor,
11 provided the said defendant shall pay the actual cost of preparing
12 such transcript. If the services of a court reporter are requested,
13 the court reporter shall be reimbursed or paid by the party who made
14 such request.

15 SECTION 7. AMENDATORY 59 O.S. 2011, Section 508, is
16 amended to read as follows:

17 Section 508. A. Whenever any license has been procured or
18 obtained by fraud or misrepresentation on the licensure application,
19 or was issued by mistake; or if the diploma of graduation in
20 medicine and surgery or any other credentials required as necessary
21 to the admission to the examination for license were obtained by
22 fraud or misrepresentation on the licensure application, or were
23 issued by mistake; or if the reciprocity endorsement from another
24 state, upon which a license has been issued in this state, was

1 procured by fraud or misrepresentation, or was issued by mistake, it
2 shall be the duty of the State Board of Medical Licensure and
3 Supervision to take appropriate disciplinary action in the same
4 manner as is provided by the Oklahoma Allopathic Medical and
5 Surgical Licensure and Supervision Act for the disciplining of
6 unprofessional conduct or in cases of unintentional
7 misrepresentation of information on the licensure application the
8 State Board of Medical Licensure and Supervision delegates to the
9 Board Secretary the ability to issue a nondisciplinary
10 administrative fine of up to, but not more than One Thousand Dollars
11 (\$1,000.00) per licensure applicant or to require a continuing
12 medical education course in ethics, or to take both actions, to
13 impress upon the applicant the seriousness of completing the
14 application truthfully.

15 B. Use of fraudulent information to obtain a license shall be a
16 misdemeanor offense, punishable, upon conviction, by the imposition
17 of a fine of not less than One Thousand Dollars (\$1,000.00), or by
18 imprisonment in the county jail for not more than one (1) year, or
19 by both such fine and imprisonment.

20 SECTION 8. AMENDATORY 59 O.S. 2011, Section 509, is
21 amended to read as follows:

22 Section 509. The words "unprofessional conduct" as used in
23 Sections 481 through 514 of this title are hereby declared to
24 include, but shall not be limited to, the following:

1 1. Procuring, aiding or abetting a criminal operation;

2 2. The obtaining of any fee or offering to accept any fee,
3 present or other form of remuneration whatsoever, on the assurance
4 or promise that a manifestly incurable disease can or will be cured;

5 3. Willfully betraying a professional secret to the detriment
6 of the patient;

7 4. Habitual intemperance or the habitual use of habit-forming
8 drugs;

9 5. Conviction or confession of, or plea of guilty, nolo
10 contendere, no contest or Alford plea to a felony or of any offense
11 involving moral turpitude;

12 6. All advertising of medical business in which statements are
13 made which are grossly untrue or improbable and calculated to
14 mislead the public;

15 7. Conviction or confession of, or plea of guilty, nolo
16 contendere, no contest or Alford plea to a crime involving violation
17 of:

18 a. the antinarcotic or prohibition laws and regulations
19 of the federal government,

20 b. the laws of this state, ~~or~~

21 c. State Board of Health rules, or

22 d. a determination by a judge or jury;

23 8. Dishonorable or immoral conduct which is likely to deceive,
24 defraud, or harm the public;

1 9. The commission of any act which is a violation of the
2 criminal laws of any state when such act is connected with the
3 physician's practice of medicine. A complaint, indictment or
4 confession of a criminal violation shall not be necessary for the
5 enforcement of this provision. Proof of the commission of the act
6 while in the practice of medicine or under the guise of the practice
7 of medicine shall be unprofessional conduct;

8 10. Failure to keep complete and accurate records of purchase
9 and disposal of controlled drugs or of narcotic drugs;

10 11. The writing of false or fictitious prescriptions for any
11 drugs or narcotics declared by the laws of this state to be
12 controlled or narcotic drugs;

13 12. Prescribing or administering a drug or treatment without
14 sufficient examination and the establishment of a valid physician-
15 patient relationship and not prescribing in a safe medically-
16 accepted manner;

17 13. The violation, or attempted violation, direct or indirect,
18 of any of the provisions of the Oklahoma Allopathic Medical and
19 Surgical Licensure and Supervision Act, either as a principal,
20 accessory or accomplice;

21 14. Aiding or abetting, directly or indirectly, the practice of
22 medicine by any person not duly authorized under the laws of this
23 state;
24

1 15. The inability to practice medicine with reasonable skill
2 and safety to patients by reason of age, illness, drunkenness,
3 excessive use of drugs, narcotics, chemicals, or any other type of
4 material or as a result of any mental or physical condition. In
5 enforcing this ~~subsection~~ section the State Board of Medical
6 Licensure and Supervision may, upon probable cause, request a
7 physician to submit to a mental or physical examination by
8 physicians designated by it. If the physician refuses to submit to
9 the examination, the Board shall issue an order requiring the
10 physician to show cause why the physician will not submit to the
11 examination and shall schedule a hearing on the order within thirty
12 (30) calendar days after notice is served on the physician,
13 exclusive of the day of service. The physician shall be notified by
14 either personal service or by certified mail with return receipt
15 requested. At the hearing, the physician and the physician's
16 attorney are entitled to present any testimony and other evidence to
17 show why the physician should not be required to submit to the
18 examination. After a complete hearing, the Board shall issue an
19 order either requiring the physician to submit to the examination or
20 withdrawing the request for examination. The medical license of a
21 physician ordered to submit for examination may be suspended until
22 the results of the examination are received and reviewed by the
23 Board;

1 16. Prescribing, dispensing or administering of controlled
2 substances or narcotic drugs in excess of the amount considered good
3 medical practice, or prescribing, dispensing or administering
4 controlled substances or narcotic drugs without medical need in
5 accordance with published standards;

6 17. Engaging in physical conduct with a patient which is sexual
7 in nature, or in any verbal behavior which is seductive or sexually
8 demeaning to a patient;

9 18. Failure to maintain an office record for each patient which
10 accurately reflects the evaluation, treatment, and medical necessity
11 of treatment of the patient;

12 19. Failure to provide necessary ongoing medical treatment when
13 a doctor-patient relationship has been established, which
14 relationship can be severed by either party providing a reasonable
15 period of time is granted; or

16 20. Failure to provide a proper and safe medical facility
17 setting and qualified assistive personnel for a recognized medical
18 act, including but not limited to an initial in-person patient
19 examination, office surgery, diagnostic service or any other medical
20 procedure or treatment. Adequate medical records to support
21 diagnosis, procedure, treatment or prescribed medications must be
22 produced and maintained.

1 SECTION 9. AMENDATORY 59 O.S. 2011, Section 512, as
2 amended by Section 3, Chapter 176, O.S.L. 2014 (59 O.S. Supp. 2017,
3 Section 512), is amended to read as follows:

4 Section 512. A. The secretary of the State Board of Medical
5 Licensure and Supervision shall be paid an annual salary in an
6 amount fixed by the Board. The Board shall have the authority to
7 expend such funds as are necessary in carrying out the duties of the
8 Board and shall have the authority to hire all necessary personnel,
9 at salaries to be fixed by the Board, as the Board shall deem
10 necessary. The Board shall have the authority to hire attorneys to
11 represent the Board in all legal matters and to assist authorized
12 state and county officers in prosecuting or restraining violations
13 of Section 481 et seq. of this title, and to fix the salaries or per
14 diem of said attorneys.

15 B. The Board shall have the authority to hire one or more
16 investigators as may be necessary to carry out the provisions of
17 this act at an annual salary to be fixed by the Board. Such
18 investigators may be commissioned peace officers of this state. In
19 addition such investigators shall have the authority and duty to
20 investigate and inspect the records of all persons in order to
21 determine whether or not a disciplinary action for unprofessional
22 misconduct is warranted or whether the narcotic laws or the
23 dangerous drug laws have been complied with.

1 C. 1. For purposes of this section, investigators shall be
2 peace officers certified by the Council on Law Enforcement Education
3 and Training and shall have statewide jurisdiction to perform the
4 duties authorized by this section. In addition, the investigators
5 shall have all the powers now or hereafter vested by law in peace
6 officers.

7 2. Investigators for the Oklahoma State Board of Medical
8 Licensure and Supervision shall perform such services as are
9 necessary in the investigation of criminal activity or preparation
10 of administrative actions.

11 3. Any licensee or applicant for license subject to the
12 provisions of the Oklahoma Allopathic Medical and Surgical Licensure
13 and Supervision Act shall be deemed to have given consent to any
14 duly authorized investigator of the Board to access, enter or
15 inspect the records, either on-site or at the Board office, or
16 facilities of such licensee or applicant subject to the Oklahoma
17 Allopathic Medical and Surgical Licensure and Supervision Act.
18 Refusal to allow such access, entry or inspection may constitute
19 grounds for the denial, nonrenewal, suspension or revocation of a
20 license. Upon refusal of such access, entry or inspection, pursuant
21 to this section, the Board or a duly authorized representative may
22 make application for and obtain a search warrant from the district
23 court where the facility or records are located to allow such
24 access, entry or inspection.

1 D. 1. The Board is specifically authorized to contract with
2 state agencies or other bodies to perform investigative services or
3 other administrative services at a rate set by the Board.

4 2. The Board is authorized to pay the travel expenses of Board
5 employees and members in accordance with the State Travel
6 Reimbursement Act.

7 3. The expenditures authorized herein shall not be a charge
8 against the state, but the same shall be paid solely from the
9 Board's depository fund.

10 SECTION 10. AMENDATORY 59 O.S. 2011, Section 513, is
11 amended to read as follows:

12 Section 513. A. 1. The State Board of Medical Licensure and
13 Supervision is hereby given quasi-judicial powers while sitting as a
14 Board for the purpose of revoking, suspending or imposing other
15 disciplinary actions upon the license of physicians or surgeons of
16 this state, and appeals from its decisions shall be taken to the
17 Supreme Court of this state within thirty (30) days of the date that
18 a copy of the decision is mailed to the appellant, as shown by the
19 certificate of mailing attached to the decision.

20 2. The license of any physician or surgeon who has been
21 convicted of any felony in or without the State of Oklahoma and
22 whether in a state or federal court, may be suspended by the Board
23 upon the submission thereto of a certified copy of the judgment and
24

1 sentence of the trial court and the certificate of the clerk of the
2 court of the conviction.

3 3. Upon proof of a ~~final~~ felony conviction by the courts ~~and~~
4 ~~after exhaustion of the appellate process~~, the Board shall revoke
5 the physician's license. If the felony conviction is overturned on
6 appeal and no other appeals are sought, the Board shall restore the
7 license of the physician. ~~Suspension or revocation of the license~~
8 ~~of any person convicted of a felony on any other grounds than that~~
9 ~~of moral turpitude or the violation of the federal or state narcotic~~
10 ~~laws, shall be on the merits of the particular case, but the court~~
11 Court records ~~in the trial of such case when~~ of such a conviction
12 ~~has been had~~ shall be prima facie evidence of the conviction.

13 4. The Board shall also revoke and cancel the license of any
14 physician or surgeon who has been charged in a court of record of
15 this or other states of the United States or in the federal court
16 with the commission of a felony and who is a fugitive from justice,
17 upon the submission of a certified copy of the charge together with
18 a certificate from the clerk of the court that after the commitment
19 of the crime the physician or surgeon fled from the jurisdiction of
20 the court and is a fugitive from justice.

21 B. To the extent necessary to allow the Board the power to
22 enforce disciplinary actions imposed by the Board, in the exercise
23 of its authority, the Board may punish willful violations of its
24

1 orders and impose additional penalties as allowed by Section 509.1
2 of this title.

3 SECTION 11. AMENDATORY 59 O.S. 2011, Section 518.1, is
4 amended to read as follows:

5 Section 518.1. A. There is hereby established the Allied
6 Professional Peer Assistance Program to rehabilitate allied medical
7 professionals whose competency may be compromised because of the
8 abuse of drugs or alcohol, so that such allied medical professionals
9 can be treated and can return to or continue the practice of allied
10 medical practice in a manner which will benefit the public. The
11 program shall be under the supervision and control of the State
12 Board of Medical Licensure and Supervision.

13 B. The Board may appoint one or more peer assistance evaluation
14 advisory committees, hereinafter called the "allied peer assistance
15 committees". Each of these committees shall be composed of members,
16 the majority of which shall be licensed allied medical professionals
17 with expertise in chemical dependency. The allied peer assistance
18 committees shall function under the authority of the State Board of
19 Medical Licensure and Supervision in accordance with the rules of
20 the Board. The program may be one hundred percent (100%) outsourced
21 to professional groups specialized in this arena. The committee
22 members shall serve without pay, but may be reimbursed for the
23 expenses incurred in the discharge of their official duties in
24 accordance with the State Travel Reimbursement Act.

1 C. The Board may appoint and employ a qualified person or
2 persons to serve as program coordinators and shall fix such person's
3 compensation. The program may employ a director for purposes of
4 ongoing nonclerical administrative duties and shall fix the
5 director's compensation. The Board shall define the duties of the
6 program coordinators and director who shall report directly to the
7 Board.

8 D. The Board is authorized to adopt and revise rules, not
9 inconsistent with the Oklahoma Allopathic Medical and Surgical
10 Licensure and Supervision Act, as may be necessary to enable it to
11 carry into effect the provisions of this section.

12 E. A portion of licensing fees for each allied profession, not
13 to exceed Ten Dollars (\$10.00), may be used to implement and
14 maintain the Allied Professional Peer Assistance Program.

15 F. All monies paid pursuant to subsection E of this section
16 shall be deposited in an agency special account revolving fund under
17 the State Board of Medical Licensure and Supervision, and shall be
18 used for the general operating expenses of the Allied Professional
19 Peer Assistance Program, including payment of personal services.

20 G. Records and management information system of the
21 professionals enrolled in the Allied Professional Peer Assistance
22 Program and reports shall be maintained in the program office in a
23 place separate and apart from the records of the Board. The records
24 shall be made public only by subpoena and court order; provided

1 however, confidential treatment shall be cancelled upon default by
2 the professional in complying with the requirements of the program.

3 H. Any person making a report to the Board or to an allied peer
4 assistance committee regarding a professional suspected of
5 practicing allied medical practice while habitually intemperate or
6 addicted to the use of habit-forming drugs, or a professional's
7 progress or lack of progress in rehabilitation, shall be immune from
8 any civil or criminal action resulting from such reports, provided
9 such reports are made in good faith.

10 I. A professional's participation in the Allied Professional
11 Peer Assistance Program in no way precludes additional proceedings
12 by the Board for acts or omissions of acts not specifically related
13 to the circumstances resulting in the professional's entry into the
14 program. However, in the event the professional defaults from the
15 program, the Board may discipline the professional for those acts
16 which led to the professional entering the program.

17 J. The Executive Director of the Board shall suspend the
18 license immediately upon notification that the licensee has
19 defaulted from the Allied Professional Peer Assistance Program, and
20 shall assign a hearing date for the matter to be presented to the
21 Board.

22 K. All treatment information, whether or not recorded, and all
23 communications between a professional and therapist are both
24 privileged and confidential. In addition, the identity of all

1 persons who have received or are receiving treatment services shall
2 be considered confidential and privileged.

3 L. As used in this section, unless the context otherwise
4 requires:

5 1. "Board" means the State Board of Medical Licensure and
6 Supervision; and

7 2. "Allied peer assistance committee" means the peer assistance
8 evaluation advisory committee created in this section, which is
9 appointed by the State Board of Medical Licensure and Supervision to
10 carry out specified duties.

11 M. The Allied Professional Peer Assistance Program may contract
12 with outside entities for services that are not available to it or
13 can be obtained for a lesser cost through such a contract. The
14 contract shall be ratified by the Board.

15 SECTION 12. AMENDATORY 74 O.S. 2011, Section 18c, as
16 last amended by Section 1, Chapter 31, O.S.L. 2016 (74 O.S. Supp.
17 2017, Section 18c), is amended to read as follows:

18 Section 18c. A. 1. Except as otherwise provided by this
19 subsection, no state officer, board or commission shall have
20 authority to employ or appoint attorneys to advise or represent said
21 officer, board or commission in any matter.

22 2. The provisions of this subsection shall not apply to the
23 Corporation Commission, the Council on Law Enforcement Education and
24 Training, the Consumer Credit Commission, the Board of Managers of

1 the State Insurance Fund, the Oklahoma Tax Commission, the
2 Commissioners of the Land Office, the Oklahoma Public Welfare
3 Commission also known as the Commission for Human Services, the
4 State Board of Corrections, the Oklahoma Health Care Authority, the
5 Department of Public Safety, the Oklahoma State Bureau of Narcotics
6 and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement
7 Commission, the Transportation Commission, the Oklahoma Energy
8 Resources Board, the Oklahoma Merit Protection Commission, the
9 Office of Management and Enterprise Services, the Oklahoma Water
10 Resources Board, the Department of Labor, the Department of
11 Agriculture, Food, and Forestry, the Northeast Oklahoma Public
12 Facilities Authority, the Oklahoma Firefighters Pension and
13 Retirement System, the Oklahoma Public Employees Retirement System,
14 the Uniform Retirement System for Justices and Judges, the Oklahoma
15 Conservation Commission, the Office of Juvenile Affairs, the State
16 Board of Pharmacy, The Board of Medical Licensure and Supervision
17 and until January 1, 2022, the Oklahoma Department of Veterans
18 Affairs.

19 3. The provisions of paragraph 2 of this subsection shall not
20 be construed to authorize the Office of Juvenile Affairs to employ
21 any attorneys that are not specifically authorized by law.

22 4. All the legal duties of such officer, board or commission
23 shall devolve upon and are hereby vested in the Attorney General;
24 provided that:

1 a. the Governor shall have authority to employ special
2 counsel to protect the rights or interest of the state
3 as provided in Section 6 of this title, and

4 b. liquidation agents of banks shall have the authority
5 to employ local counsel, with the consent of the Bank
6 Commissioner and the Attorney General and the approval
7 of the district court.

8 B. At the request of any state officer, board or commission,
9 except the Corporation Commission, the Board of Managers of the
10 CompSource Oklahoma, Oklahoma Tax Commission and the Commissioners
11 of the Land Office, the Grand River Dam Authority, the Oklahoma
12 State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic
13 Beverage Laws Enforcement Commission, the Oklahoma Firefighters
14 Pension and Retirement System, the Oklahoma Public Employees
15 Retirement System, the Uniform Retirement System for Justices and
16 Judges and the Interstate Oil and Gas Compact Commission, the
17 Attorney General shall defend any action in which they may be sued
18 in their official capacity. At the request of any such state
19 officer, board or commission, the Attorney General shall have
20 authority to institute suits in the name of the State of Oklahoma on
21 their relation, if after investigation the Attorney General is
22 convinced there is sufficient legal merit to justify the action.

23 C. Any officer, board, or commission which has the authority to
24 employ or appoint attorneys may request that the Attorney General

1 defend any action arising pursuant to the provisions of The
2 Governmental Tort Claims Act.

3 D. Nothing in this section shall be construed to repeal or
4 affect the provisions of the statutes of this state pertaining to
5 attorneys and legal advisors of the several commissions and
6 departments of state specified in subsection B of this section, and
7 all acts and parts of acts pertaining thereto shall be and remain in
8 full force and effect.

9 SECTION 13. This act shall become effective November 1, 2018.

10 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
11 February 19, 2018 - DO PASS
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