

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 57th Legislature (2019)

4   COMMITTEE SUBSTITUTE  
5   FOR ENGROSSED  
6   SENATE BILL NO. 876

By: McCortney of the Senate

and

Caldwell (Chad) of the  
House

11                                   COMMITTEE SUBSTITUTE

12       An Act relating to the State Board of Medical  
13       Licensure and Supervision; amending 59 O.S. 2011,  
14       Section 487, which relates to secretary; authorizing  
15       Board to hire physician as Medical Advisor; amending  
16       59 O.S. 2011, Section 488, which relates to meetings  
17       of Board; modifying terminology; making language  
18       gender-neutral; making certain meetings not required;  
19       requiring certain notice; providing certain  
20       construction; amending 59 O.S. 2011, Section 493.1,  
21       as amended by Section 2, Chapter 280, O.S.L. 2013 (59  
22       O.S. Supp. 2018, Section 493.1), which relates to  
23       applicant documentation and qualifications; modifying  
24       required documentation; amending 59 O.S. 2011,  
      Section 495a.1, as amended by Section 1, Chapter 175,  
      O.S.L. 2018 (59 O.S. Supp. 2018, Section 495a.1),  
      which relates to license registration; directing  
      Board to promulgate certain rules; setting certain  
      fine; amending 59 O.S. 2011, Section 503, as amended  
      by Section 1, Chapter 176, O.S.L. 2014 (59 O.S. Supp.  
      2018, Section 503), which 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; authorizing promulgation of rules; directing

1 contents of rules; amending 59 O.S. 2011, Section  
2 508, which relates to revocation of licensure;  
3 modifying conditions under which Board may issue  
4 certain fine and require applicant to take certain  
5 action; amending 59 O.S. 2011, Section 509, as  
6 amended by Section 2, Chapter 175, O.S.L. 2018 (59  
7 O.S. Supp. 2018, Section 509), which relates to  
8 unprofessional conduct; modifying certain definition;  
9 clarifying time period; amending 59 O.S. 2011,  
10 Section 509.1, which relates to disciplinary actions;  
11 providing that investigative files shall remain  
12 confidential; amending 59 O.S. 2011, Section 512, as  
13 amended by Section 3, Chapter 176, O.S.L. 2014 (59  
14 O.S. Supp. 2018, Section 512), which relates to  
15 salary of secretary; requiring certain investigators  
16 to be certified peace officers; providing statewide  
17 jurisdiction; requiring investigators to perform  
18 certain duties; requiring licensees to cooperate with  
19 investigators; broadening services the Board may  
20 contract to perform; amending 59 O.S. 2011, Section  
21 513, which relates to quasi-judicial powers of the  
22 Board; modifying conditions under which the Board  
23 shall revoke a license; amending 59 O.S. 2011,  
24 Section 518.1, which relates to the Allied  
Professional Peer Assistance Program; authorizing  
program to employ director and fix salary;  
authorizing Board to define duties of director;  
authorizing program to contract with outside entities  
for certain services; requiring contracts to be  
ratified by the Board; updating statutory references;  
providing for codification; and providing an  
effective date.

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 to serve as Medical Advisor to the Board and the

1 Board staff. The Board may hire the secretary as an employee of the  
2 Board at such hours of employment and compensation as determined by  
3 the Board. The Board may hire a licensed allopathic physician to  
4 serve as the ~~secretary-medical~~ secretary or medical advisor, or  
5 both, to the Board and its staff. This position shall be in the  
6 exempt unclassified service, as provided for in subsection B of  
7 Section 840-5.5 of Title 74 of the Oklahoma Statutes. The secretary  
8 shall not be a member of the Board and shall not vote on Board  
9 actions.

10 B. The secretary of the Board shall preserve a true record of  
11 the official proceedings of the meetings of the Board. He or she  
12 shall also preserve a record of physicians licensed, applying for  
13 such license or applying for reinstatement of such license in this  
14 state showing:

- 15 1. Age;
- 16 2. Ethnic origin;
- 17 3. Sex;
- 18 4. Place of practice and residence;
- 19 5. The time spent in premedical and medical study, together  
20 with the names of the schools attended, and the date of graduation  
21 therefrom, with the degrees granted;
- 22 6. The grades made in examination for license or grades filed  
23 in application therefor; and

1        7. A record of the final disposition of each application for  
2 licensure.

3        The secretary of the Board shall, on or before the first day of  
4 May in each year, transmit an official copy of ~~said~~ the register for  
5 the preceding calendar year, to the Secretary of State for permanent  
6 record, a certified copy of which shall be admitted as evidence in  
7 all courts of the state.

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

10        Section 488. A. The State Board of Medical Licensure and  
11 Supervision may hold regular meetings at times to be fixed by the  
12 president and secretary of the Board in accordance with the  
13 provisions of the Oklahoma Open Meeting Act. In addition, the  
14 president and secretary may call such special and other meetings in  
15 accordance with the provisions of the Oklahoma Open Meeting Act. A  
16 majority of the members of the Board shall constitute a quorum for  
17 the transaction of business but a less number may adjourn from time  
18 to time until a quorum is present.

19        B. No meeting as provided for in subsection A of this section  
20 shall be required for the determination of the qualifications of an  
21 applicant for a ~~certificate~~ license issued pursuant to the  
22 provisions of Section 495 of this title. Each member of the Board  
23 authorized to vote on licensure may review the qualifications of the  
24 applicant during times other than when a regular or special meeting

1 is held, to determine the sufficiency of ~~said~~ the qualifications.  
2 Each member shall notify the secretary of his or her findings, in  
3 writing. The provisions of this subsection shall not be construed  
4 to prohibit the Board from reviewing the qualifications of an  
5 applicant for licensure during any regular or special meeting of the  
6 Board.

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

20 SECTION 3. AMENDATORY 59 O.S. 2011, Section 493.1, as  
21 amended by Section 2, Chapter 280, O.S.L. 2013 (59 O.S. Supp. 2018,  
22 Section 493.1), is amended to read as follows:

23 Section 493.1 A. An applicant to practice medicine and surgery  
24 in this state shall provide to the State Board of Medical Licensure

1 and Supervision and attest to the following information and  
2 documentation in a manner required by the Board:

3 1. The applicant's full name and all aliases or other names  
4 ever used, current address, Social Security number and date and  
5 place of birth;

6 2. A ~~signed and notarized~~ photograph of the applicant, taken  
7 within the previous twelve (12) months;

8 3. ~~Originals of all~~ All documents and credentials required by  
9 the Board, or notarized photocopies or other verification acceptable  
10 to the Board of such documents and credentials;

11 4. A list of all jurisdictions, United States or foreign, in  
12 which the applicant is licensed or has applied for licensure to  
13 practice medicine and surgery or is authorized or has applied for  
14 authorization to practice medicine and surgery;

15 5. A list of all jurisdictions, United States or foreign, in  
16 which the applicant has been denied licensure or authorization to  
17 practice medicine and surgery or has voluntarily surrendered a  
18 license or an authorization to practice medicine and surgery;

19 6. A list of all sanctions, judgments, awards, settlements, or  
20 convictions against the applicant in any jurisdiction, United States  
21 or foreign, that would constitute grounds for disciplinary action  
22 under this act or the Board's rules;

23 7. A detailed educational history, including places,  
24 institutions, dates, and program descriptions, of all his or her

1 education, including all college, preprofessional, professional, and  
2 professional graduate education;

3 8. A detailed chronological life history from age eighteen (18)  
4 years to the present, including places and dates of residence,  
5 employment, and military service (United States or foreign) and all  
6 professional degrees or licenses or certificates now or ever held;  
7 and

8 9. Any other information or documentation specifically  
9 requested by the Board that is related to the applicant's ability to  
10 practice medicine and surgery.

11 B. The applicant shall possess a valid degree of Doctor of  
12 Medicine from a medical college or school located in the United  
13 States, its territories or possessions, or Canada that was approved  
14 by the Board or by a private nonprofit accrediting body approved by  
15 the Board at the time the degree was conferred. The application  
16 shall be considered by the Board based upon the product and process  
17 of the medical education and training.

18 C. The applicant shall have satisfactorily completed twelve  
19 (12) months of progressive postgraduate medical training approved by  
20 the Board or by a private nonprofit accrediting body approved by the  
21 Board in an institution in the United States, its territories or  
22 possessions, or in programs in Canada, England, Scotland, Ireland,  
23 Australia or New Zealand approved by the Board or by a private  
24 nonprofit accrediting body approved by the Board.

1 D. The applicant shall submit a history from the Administration  
2 of the Medical School from which the applicant graduated of any  
3 suspension, probation, or disciplinary action taken against the  
4 applicant while a student at that institution.

5 E. The applicant shall have passed medical licensing  
6 examination(s) satisfactory to the Board.

7 F. The applicant shall have demonstrated a familiarity with all  
8 appropriate statutes and rules and regulations of this state and the  
9 federal government relating to the practice of medicine and surgery.

10 G. The applicant shall be physically, mentally, professionally,  
11 and morally capable of practicing medicine and surgery in a manner  
12 reasonably acceptable to the Board and in accordance with federal  
13 law and shall be required to submit to a physical, mental, or  
14 professional competency examination or a drug dependency evaluation  
15 if deemed necessary by the Board.

16 H. The applicant shall not have committed or been found guilty  
17 by a competent authority, United States or foreign, of any conduct  
18 that would constitute grounds for disciplinary action under this act  
19 or rules of the Board. The Board may modify this restriction for  
20 cause.

21 I. Upon request by the Board, the applicant shall make a  
22 personal appearance before the Board or a representative thereof for  
23 interview, examination, or review of credentials. At the discretion  
24 of the Board, the applicant shall be required to present his or her



1 original medical education credentials for inspection during the  
2 personal appearance.

3 J. The applicant shall be held responsible for verifying to the  
4 satisfaction of the Board the identity of the applicant and the  
5 validity of all credentials required for his or her medical  
6 licensure. The Board may review and verify medical credentials and  
7 screen applicant records through recognized national physician  
8 information services.

9 K. The applicant shall have paid all fees and completed and  
10 attested to the accuracy of all application and information forms  
11 required by the Board.

12 L. Grounds for the denial of a license shall include:

13 1. Use of false or fraudulent information by an applicant;

14 2. Suspension or revocation of a license in another state  
15 unless the license has been reinstated in that state;

16 3. Refusal of licensure in another state other than for  
17 examination failure; and

18 4. Multiple examination failures.

19 M. The Board shall not deny a license to a person otherwise  
20 qualified to practice allopathic medicine within the meaning of this  
21 act solely because the person's practice or a therapy is  
22 experimental or nontraditional.

1       SECTION 4.       AMENDATORY       59 O.S. 2011, Section 495a.1, as  
2 amended by Section 1, Chapter 175, O.S.L. 2018 (59 O.S. Supp. 2018,  
3 Section 495a.1) is amended to read as follows:

4       Section 495a.1 A. At regular intervals set by the State Board  
5 of Medical Licensure and Supervision, no less than one time per  
6 annum, each licensee licensed by ~~this act~~ the Oklahoma Allopathic  
7 Medical and Surgical Licensure and Supervision Act shall demonstrate  
8 to the Board the licensee's continuing qualification to practice  
9 medicine and surgery. The licensee shall apply for license  
10 reregistration on a form or forms provided by the Board, which shall  
11 be designed to require the licensee to update or add to the  
12 information in the Board's file relating to the licensee and his or  
13 her professional activity. It shall also require the licensee to  
14 report to the Board the following information:

15       1. Any action taken against the licensee for acts or conduct  
16 similar to acts or conduct described in ~~this act~~ the Oklahoma  
17 Allopathic Medical and Surgical Licensure and Supervision Act as  
18 grounds for disciplinary action by:

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

1           e.    any law enforcement agency,

2           f.    any court, or

3           g.    any governmental agency;

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

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

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

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

20          6.   The licensee's voluntary resignation or withdrawal from a  
21 national, state, or county medical society, association, or  
22 organization if that action occurred while the licensee was under  
23 formal or informal investigation or review by that body for any  
24

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 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 Board shall require that the licensee receive not less  
24 than one (1) hour of education in pain management or one (1) hour of

1 education in opioid use or addiction each year preceding an  
2 application for renewal of a license, unless the licensee has  
3 demonstrated to the satisfaction of the Board that the licensee does  
4 not currently hold a valid federal Drug Enforcement Administration  
5 registration number.

6 D. The licensee shall sign and attest to the veracity of the  
7 application form for license reregistration. Failure to report  
8 fully and correctly shall be grounds for disciplinary action by the  
9 Board.

10 E. The Board shall establish a system for reviewing  
11 reregistration forms. The Board may initiate investigations and  
12 disciplinary proceedings based on information submitted by licensees  
13 for license reregistration.

14 F. Upon a finding by the Board that the licensee is fit to  
15 continue to practice medicine and surgery in this state, the Board  
16 shall issue to the licensee a license to practice medicine and  
17 surgery during the next registration period.

18 SECTION 5. AMENDATORY 59 O.S. 2011, Section 503, as  
19 amended by Section 1, Chapter 176, O.S.L. 2014 (59 O.S. Supp. 2018,  
20 Section 503), is amended to read as follows:

21 Section 503. The State Board of Medical Licensure and  
22 Supervision may suspend, revoke or order any other appropriate  
23 sanctions against the license of any physician or surgeon holding a  
24 license to practice in this state for unprofessional conduct, but no

1 such suspension, revocation or other penalty shall be made until the  
2 licensee is cited to appear for hearing. No such citation shall be  
3 issued except upon sworn complaint filed with the secretary of the  
4 Board charging the licensee with having been guilty of  
5 unprofessional conduct and setting forth the particular act or acts  
6 alleged to constitute unprofessional conduct. In the event it comes  
7 to the attention of the Board that a violation of the rules of  
8 professional conduct may have occurred, even though a formal  
9 complaint or charge may not have been filed, the Board staff may  
10 conduct an investigation of the possible violation, and may upon its  
11 own motion institute a formal complaint. In the course of the  
12 investigation persons appearing before the Board may be required to  
13 testify under oath. Upon the filing of a complaint, either by an  
14 individual or the Board staff as provided herein, the citation must  
15 forthwith be issued by the secretary of the Board over the signature  
16 of the secretary and seal of the Board, setting forth the complaint  
17 of unprofessional conduct, and giving due notice of the time and  
18 place of the hearing by the Board. ~~The citation shall be made~~  
19 ~~returnable at the next regular meeting of the Board occurring at~~  
20 ~~least thirty (30) days after the service of the citation. In any~~  
21 case in which a physician disputes allegations made in a complaint,  
22 the matter shall be set and heard by the Board at the next regular  
23 meeting of the Board occurring at least thirty (30) calendar days  
24 after the day of service of the citation, exclusive of the day of

1 service, but will be heard not later than the next regular meeting  
2 of the Board occurring after ninety (90) calendar days after service  
3 of the citation, exclusive of the day of service. No continuance  
4 may be granted by the Board on its own motion or at the request of  
5 the defendant or his or her counsel or at the request of the  
6 attorney for the state, unless the record of the case, either orally  
7 or in writing, sets forth a finding that the ends of justice served  
8 by the granting of such continuance outweigh the best interest of  
9 the public and the defendant in a speedy hearing. The defendant  
10 shall file a written answer under oath with the secretary of the  
11 Board within twenty (20) calendar days after the service of the  
12 citation, exclusive of the day of service. The secretary of the  
13 Board may extend the time of answer upon satisfactory showing that  
14 the defendant is for reasonable cause unable to answer within the  
15 twenty (20) calendar days exclusive of the day of service, but in no  
16 case shall the time be extended beyond the date of the next regular  
17 meeting of the Board, unless a continuance is granted by the Board.

18 SECTION 6. AMENDATORY 59 O.S. 2011, Section 503.1, is  
19 amended to read as follows:

20 Section 503.1 The Secretary of the State Board of Medical  
21 Licensure and Supervision, upon concurrence of the President of the  
22 Board that an emergency exists for which the immediate suspension of  
23 a license is imperative for the public health, safety and welfare,  
24 may conduct a hearing as contemplated by Section 314 of Title 75 of

1 the Oklahoma Statutes ~~to~~ and may, upon probable cause, suspend  
2 temporarily the license of any person under the jurisdiction of the  
3 Board.

4 SECTION 7. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 503.2 of Title 59, unless there  
6 is created a duplication in numbering, reads as follows:

7 A. The State Board of Medical Licensure and Supervision may  
8 promulgate rules to create administrative remedies for licensee  
9 violations of statutory or regulatory prescribed unprofessional  
10 conduct.

11 B. The Board is authorized to prescribe by rule administrative  
12 remedies, disciplinary actions and administrative procedures to  
13 provide remedies and disciplinary actions for licensee violations of  
14 statutory or regulatory prescribed unprofessional conduct, to  
15 include fines up to the limits otherwise prescribed by statute or  
16 rule.

17 C. Any such administrative action rules promulgated by the  
18 Board shall provide procedure:

19 1. For the licensee to contest or dispute any administrative  
20 action;

21 2. For procedures for resolution of any such contest or  
22 dispute; and

23 3. For appropriate protection of private information consistent  
24 with state and federal law.



1       SECTION 8.       AMENDATORY       59 O.S. 2011, Section 508, is  
2 amended to read as follows:

3       Section 508. A. Whenever any license has been procured or  
4 obtained by fraud or misrepresentation on the licensure application,  
5 or was issued by mistake; or if the diploma of graduation in  
6 medicine and surgery or any other credentials required as necessary  
7 to the admission to the examination for license were obtained by  
8 fraud or misrepresentation on the licensure application, or were  
9 issued by mistake; or if the reciprocity endorsement from another  
10 state, upon which a license has been issued in this state, was  
11 procured by fraud or misrepresentation, or was issued by mistake, it  
12 shall be the duty of the State Board of Medical Licensure and  
13 Supervision to take appropriate disciplinary action in the same  
14 manner as is provided by the Oklahoma Allopathic Medical and  
15 Surgical Licensure and Supervision Act for the disciplining of  
16 unprofessional conduct or in cases of unintentional  
17 misrepresentation of information on the licensure application, the  
18 State Board of Medical Licensure and Supervision shall delegate to  
19 the Board secretary the ability to issue a nondisciplinary  
20 administrative fine of up to but not more than One Thousand Dollars  
21 (\$1,000.00) per licensure applicant or to require a continuing  
22 medical education course in ethics, or to take both actions, to  
23 impress upon the applicant the seriousness of completing the  
24 application truthfully.

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

6 SECTION 9. AMENDATORY 59 O.S. 2011, Section 509, as  
7 amended by Section 2, Chapter 175, O.S.L. 2018 (59 O.S. Supp. 2018,  
8 Section 509), is amended to read as follows:

9 Section 509. The words "unprofessional conduct" as used in  
10 Sections 481 through 518.1 of this title are hereby declared to  
11 include, but shall not be limited to, the following:

- 12 1. Procuring, aiding or abetting a criminal operation;
- 13 2. The obtaining of any fee or offering to accept any fee,  
14 present or other form of remuneration whatsoever, on the assurance  
15 or promise that a manifestly incurable disease can or will be cured;
- 16 3. Willfully betraying a professional secret to the detriment  
17 of the patient;
- 18 4. Habitual intemperance or the habitual use of habit-forming  
19 drugs;
- 20 5. Conviction or confession of, or plea of guilty, nolo  
21 contendere, no contest or Alford plea to, a felony or ~~of~~ any offense  
22 involving moral turpitude;
- 23
- 24

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  
6 violation 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) days after notice is served on the physician, exclusive of the  
3 day of service. The physician shall be notified by either personal  
4 service or by certified mail with return receipt requested. At the  
5 hearing, the physician and the physician's attorney are entitled to  
6 present any testimony and other evidence to show why the physician  
7 should not be required to submit to the examination. After a  
8 complete hearing, the Board shall issue an order either requiring  
9 the physician to submit to the examination or withdrawing the  
10 request for examination. The medical license of a physician ordered  
11 to submit for examination may be suspended until the results of the  
12 examination are received and reviewed by the Board;

- 13       16. a. Prescribing, dispensing or administering of controlled  
14               substances or narcotic drugs in excess of the amount  
15               considered good medical practice,  
16               b. prescribing, dispensing or administering controlled  
17               substances or narcotic drugs without medical need in  
18               accordance with pertinent licensing board standards,  
19               or  
20               c. prescribing, dispensing or administering opioid drugs  
21               in excess of the maximum dosage authorized under  
22               Section ~~5 of this act~~ 2-309I of Title 63 of the  
23               Oklahoma Statutes;

24

1 17. Engaging in physical conduct with a patient which is sexual  
2 in nature, or in any verbal behavior which is seductive or sexually  
3 demeaning to a patient;

4 18. Failure to maintain an office record for each patient which  
5 accurately reflects the evaluation, treatment, and medical necessity  
6 of treatment of the patient;

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

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

18 SECTION 10. AMENDATORY 59 O.S. 2011, Section 509.1, is  
19 amended to read as follows:

20 Section 509.1 A. RANGE OF ACTIONS: The State Board of Medical  
21 Licensure and Supervision may impose disciplinary actions in  
22 accordance with the severity of violation of the Oklahoma Allopathic  
23 Medical and Surgical Licensure and Supervision Act. Disciplinary  
24 actions may include, but are not limited to the following:

1 1. Revocation of the medical license with or without the right  
2 to reapply;

3 2. Suspension of the medical license;

4 3. Probation;

5 4. Stipulations, limitations, restrictions, and conditions  
6 relating to practice;

7 5. Censure, including specific redress, if appropriate;

8 6. Reprimand;

9 7. A period of free public or charity service;

10 8. Satisfactory completion of an educational, training, and/or  
11 treatment program or programs; and

12 9. Administrative fines of up to Five Thousand Dollars  
13 (\$5,000.00) per violation.

14 Provided, as a condition of disciplinary action sanctions, the Board  
15 may impose as a condition of any disciplinary action, the payment of  
16 costs expended by the Board for any legal fees and costs and  
17 probation and monitoring fees including, but not limited to, staff  
18 time, salary and travel expense, witness fees and attorney fees.  
19 The Board may take such actions singly or in combination as the  
20 nature of the violation requires.

21 B. LETTER OF CONCERN: The Board may authorize the secretary to  
22 issue a confidential letter of concern to a licensee when evidence  
23 does not warrant formal proceedings, but the secretary has noted  
24 indications of possible errant conduct that could lead to serious

1 consequences and formal action. The letter of concern may contain,  
2 at the secretary's discretion, clarifying information from the  
3 licensee.

4 C. EXAMINATION/EVALUATION: The Board may, upon reasonable  
5 cause, require professional competency, physical, mental, or  
6 chemical dependency examinations of any licensee, including  
7 withdrawal and laboratory examination of body fluids.

8 D. DISCIPLINARY ACTION AGAINST LICENSEES:

9 1. The Board shall promulgate rules describing acts of  
10 unprofessional or unethical conduct by physicians pursuant to the  
11 Oklahoma Allopathic Medical and Surgical Licensure and Supervision  
12 Act; and

13 2. Grounds for Action: The Board may take disciplinary action  
14 for unprofessional or unethical conduct as deemed appropriate based  
15 upon the merits of each case and as set out by rule. The Board  
16 shall not revoke the license of a person otherwise qualified to  
17 practice allopathic medicine within the meaning of the Oklahoma  
18 Allopathic Medical and Surgical Licensure and Supervision Act solely  
19 because the person's practice or a therapy is experimental or  
20 nontraditional.

21 Reports of all disciplinary action provided for in this section  
22 will be available to the public upon request. Investigative files  
23 shall remain confidential.

24 E. SURRENDER IN LIEU OF PROSECUTION:



1        1. The Board may accept a surrender of license from a licensee  
2 who has engaged in unprofessional conduct in lieu of Board staff  
3 prosecuting a pending disciplinary action or filing formal  
4 disciplinary proceedings only as provided in this section. To  
5 effect such a surrender, the licensee must submit a sworn statement  
6 to the Board:

7            a. expressing the licensee's desire to surrender the  
8 license,

9            b. acknowledging that the surrender is freely and  
10 voluntarily made, that the licensee has not been  
11 subjected to coercion or duress, and that the licensee  
12 is fully aware of the consequences of the license  
13 surrender,

14           c. stating that the licensee is the subject of an  
15 investigation or proceeding by the Board or a law  
16 enforcement or other regulatory agency involving  
17 allegations which, if proven, would constitute grounds  
18 for disciplinary action by the Board, and

19           d. specifically admitting to and describing the  
20 misconduct.

21        2. The sworn written statement must be submitted with the  
22 licensee's wallet card and wall certificate. The Secretary or  
23 Executive Director of the Board may accept the sworn statement,  
24 wallet card and wall certificate from a licensee pending formal

1 acceptance by the Board. The issuance of a complaint and citation  
2 by the Board shall not be necessary for the Board to accept a  
3 surrender under this subsection. A surrender under this subsection  
4 shall be considered disciplinary action by the Board in all cases,  
5 even in cases where surrender occurs prior to the issuance of a  
6 formal complaint and citation, and shall be reported as disciplinary  
7 action by the Board to the public and any other entity to whom the  
8 Board regularly reports disciplinary actions.

9 3. As a condition to acceptance of the surrender, the Board may  
10 require the licensee to pay the costs expended by the Board for any  
11 legal fees and costs and any investigation, probation and monitoring  
12 fees including, but not limited to, staff time, salary and travel  
13 expense, witness fees and attorney fees.

14 4. The licensee whose surrender in lieu of prosecution is  
15 accepted by the Board shall be ineligible to reapply for  
16 reinstatement of his or her license for at least one (1) year from  
17 the date of the accepted surrender.

18 F. ALL LICENSED PROFESSIONALS: All disciplinary actions  
19 defined in this section are applicable to any and all professional  
20 licensees under the legislative jurisdiction of the State Board of  
21 Medical Licensure and Supervision.

22 SECTION 11. AMENDATORY 59 O.S. 2011, Section 512, as  
23 amended by Section 3, Chapter 176, O.S.L. 2014 (59 O.S. Supp. 2018,  
24 Section 512), is amended to read as follows:

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

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

22       C. 1. For purposes of this section, investigators shall be  
23 peace officers certified by the Council on Law Enforcement Education  
24 and Training and shall have statewide jurisdiction to perform the

1 duties authorized by this section. In addition, the investigators  
2 shall have all the powers now or hereafter vested by law in peace  
3 officers.

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

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

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

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

4        3. The expenditures authorized herein to include capital  
5 purchases shall not be a charge against the state, but the same  
6 shall be paid solely from the Board's depository fund.

7        SECTION 12.        AMENDATORY        59 O.S. 2011, Section 513, is  
8 amended to read as follows:

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

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

23        3. Upon proof of a ~~final~~ felony conviction by the courts ~~and~~  
24 ~~after exhaustion of the appellate process~~, the Board shall revoke

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

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

17 B. To the extent necessary to allow the Board the power to  
18 enforce disciplinary actions imposed by the Board, in the exercise  
19 of its authority, the Board may punish willful violations of its  
20 orders and impose additional penalties as allowed by Section 509.1  
21 of this title.

22 SECTION 13. AMENDATORY 59 O.S. 2011, Section 518.1, is  
23 amended to read as follows:  
24

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

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

21       C.   The Board may appoint and employ a qualified person or  
22 persons to serve as program coordinators and shall fix such person's  
23 compensation. The program may employ a director for purposes of  
24 ongoing nonclerical administrative duties and shall fix the

1 director's compensation. The Board shall define the duties of the  
2 program coordinators and director who shall report directly to the  
3 Board.

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

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

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

16 G. Records and management information system of the  
17 professionals enrolled in the Allied Professional Peer Assistance  
18 Program and reports shall be maintained in the program office in a  
19 place separate and apart from the records of the Board. The records  
20 shall be made public only by subpoena and court order; provided  
21 however, confidential treatment shall be cancelled upon default by  
22 the professional in complying with the requirements of the program.

23 H. Any person making a report to the Board or to an allied peer  
24 assistance committee regarding a professional suspected of



1 practicing allied medical practice while habitually intemperate or  
2 addicted to the use of habit-forming drugs, or a professional's  
3 progress or lack of progress in rehabilitation, shall be immune from  
4 any civil or criminal action resulting from such reports, provided  
5 such reports are made in good faith.

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

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

18 K. All treatment information, whether or not recorded, and all  
19 communications between a professional and therapist are both  
20 privileged and confidential. In addition, the identity of all  
21 persons who have received or are receiving treatment services shall  
22 be considered confidential and privileged.

23 L. As used in this section, unless the context otherwise  
24 requires:

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

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

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

11        SECTION 14. This act shall become effective November 1, 2019.

12  
13 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 04/15/2019 - DO PASS,  
14 As Amended.