

OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

May 15, 2019

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB 876

By: McCortney of the Senate and Caldwell (Chad) of the House

Title: State Board of Medical Licensure and Supervision; authorizing Board to hire physician as Medical Advisor; licenses; application; registration; suspension of licensure. Effective date.

together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the House recede from all Amendments.
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

SENATE CONFEREES:


McCortney

Ikley-Freeman


Smalley

Hicks


Daniels


Rosino

HOUSE CONFEREES:

Conference Committee on Rules

Senate Action _____ Date _____ House Action _____ Date _____



STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED

SENATE BILL NO. 876

By: McCortney of the Senate

and

Caldwell (Chad) of the
House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the State Board of Medical Licensure and Supervision; amending 59 O.S. 2011, Section 487, which relates to secretary; authorizing Board to hire physician as Medical Advisor; amending 59 O.S. 2011, Section 493.1, as amended by Section 2, Chapter 280, O.S.L. 2013 (59 O.S. Supp. 2018, Section 493.1), which relates to applicant documentation and qualifications; modifying 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 contents of rules; 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, as amended by Section 2, Chapter 175, O.S.L. 2018 (59 O.S. Supp.

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

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

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

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

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

6 SECTION 2. AMENDATORY 59 O.S. 2011, Section 493.1, as
7 amended by Section 2, Chapter 280, O.S.L. 2013 (59 O.S. Supp. 2018,
8 Section 493.1), is amended to read as follows:

9 Section 493.1 A. An applicant to practice medicine and surgery
10 in this state shall provide to the State Board of Medical Licensure
11 and Supervision and attest to the following information and
12 documentation in a manner required by the Board:

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

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

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

21 4. A list of all jurisdictions, United States or foreign, in
22 which the applicant is licensed or has applied for licensure to
23 practice medicine and surgery or is authorized or has applied for
24 authorization to practice medicine and surgery;

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

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

9 7. A detailed educational history, including places,
10 institutions, dates, and program descriptions, of all his or her
11 education, including all college, preprofessional, professional, and
12 professional graduate education;

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

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

21 B. The applicant shall possess a valid degree of Doctor of
22 Medicine from a medical college or school located in the United
23 States, its territories or possessions, or Canada that was approved
24 by the Board or by a private nonprofit accrediting body approved by

1 the Board at the time the degree was conferred. The application
2 shall be considered by the Board based upon the product and process
3 of the medical education and training.

4 C. The applicant shall have satisfactorily completed twelve
5 (12) months of progressive postgraduate medical training approved by
6 the Board or by a private nonprofit accrediting body approved by the
7 Board in an institution in the United States, its territories or
8 possessions, or in programs in Canada, England, Scotland, Ireland,
9 Australia or New Zealand approved by the Board or by a private
10 nonprofit accrediting body approved by the Board.

11 D. The applicant shall submit a history from the Administration
12 of the Medical School from which the applicant graduated of any
13 suspension, probation, or disciplinary action taken against the
14 applicant while a student at that institution.

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

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

20 G. The applicant shall be physically, mentally, professionally,
21 and morally capable of practicing medicine and surgery in a manner
22 reasonably acceptable to the Board and in accordance with federal
23 law and shall be required to submit to a physical, mental, or
24

1 professional competency examination or a drug dependency evaluation
2 if deemed necessary by the Board.

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

8 I. Upon request by the Board, the applicant shall make a
9 personal appearance before the Board or a representative thereof for
10 interview, examination, or review of credentials. At the discretion
11 of the Board, the applicant shall be required to present his or her
12 original medical education credentials for inspection during the
13 personal appearance.

14 J. The applicant shall be held responsible for verifying to the
15 satisfaction of the Board the identity of the applicant and the
16 validity of all credentials required for his or her medical
17 licensure. The Board may review and verify medical credentials and
18 screen applicant records through recognized national physician
19 information services.

20 K. The applicant shall have paid all fees and completed and
21 attested to the accuracy of all application and information forms
22 required by the Board.

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

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

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

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

5 4. Multiple examination failures.

6 M. The Board shall not deny a license to a person otherwise
7 qualified to practice allopathic medicine within the meaning of this
8 act solely because the person's practice or a therapy is
9 experimental or nontraditional.

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

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

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

- 5 a. any jurisdiction or authority (United States or
6 foreign) that licenses or authorizes the practice of
7 medicine and surgery,
- 8 b. any peer review body,
- 9 c. any health care institution,
- 10 d. any professional medical society or association,
- 11 e. any law enforcement agency,
- 12 f. any court, or
- 13 g. any governmental agency;

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

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

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

23 5. The licensee's voluntary resignation from the medical staff
24 of any health care institution or voluntary limitation of the

1 licensee's staff privileges at such an institution if that action
2 occurred while the licensee was under formal or informal
3 investigation by the institution or a committee thereof for any
4 reason related to alleged medical incompetence, unprofessional
5 conduct, or mental or physical impairment;

6 6. The licensee's voluntary resignation or withdrawal from a
7 national, state, or county medical society, association, or
8 organization if that action occurred while the licensee was under
9 formal or informal investigation or review by that body for any
10 reason related to possible medical incompetence, unprofessional or
11 unethical conduct, or mental or physical impairment;

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

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

20 9. The licensee's completion of continuing medical education or
21 other forms of professional maintenance or evaluation, including
22 specialty board certification or recertification, during the
23 previous registration period.

1 B. The Board may require continuing medical education for
2 license reregistration and require documentation of that education.
3 The Board shall promulgate rules on the specific requirements of the
4 amount of continuing medical education needed for reregistration.
5 Failure to meet the requirements in the allotted time may result in
6 the licensee being required to pay a nondisciplinary fine by the
7 Board secretary of up to but not more than One Thousand Dollars
8 (\$1,000.00).

9 C. The Board shall require that the licensee receive not less
10 than one (1) hour of education in pain management or one (1) hour of
11 education in opioid use or addiction each year preceding an
12 application for renewal of a license, unless the licensee has
13 demonstrated to the satisfaction of the Board that the licensee does
14 not currently hold a valid federal Drug Enforcement Administration
15 registration number.

16 D. The licensee shall sign and attest to the veracity of the
17 application form for license reregistration. Failure to report
18 fully and correctly shall be grounds for disciplinary action by the
19 Board.

20 E. The Board shall establish a system for reviewing
21 reregistration forms. The Board may initiate investigations and
22 disciplinary proceedings based on information submitted by licensees
23 for license reregistration.
24

1 F. Upon a finding by the Board that the licensee is fit to
2 continue to practice medicine and surgery in this state, the Board
3 shall issue to the licensee a license to practice medicine and
4 surgery during the next registration period.

5 SECTION 4. AMENDATORY 59 O.S. 2011, Section 503, as
6 amended by Section 1, Chapter 176, O.S.L. 2014 (59 O.S. Supp. 2018,
7 Section 503), is amended to read as follows:

8 Section 503. The State Board of Medical Licensure and
9 Supervision may suspend, revoke or order any other appropriate
10 sanctions against the license of any physician or surgeon holding a
11 license to practice in this state for unprofessional conduct, but no
12 such suspension, revocation or other penalty shall be made until the
13 licensee is cited to appear for hearing. No such citation shall be
14 issued except upon sworn complaint filed with the secretary of the
15 Board charging the licensee with having been guilty of
16 unprofessional conduct and setting forth the particular act or acts
17 alleged to constitute unprofessional conduct. In the event it comes
18 to the attention of the Board that a violation of the rules of
19 professional conduct may have occurred, even though a formal
20 complaint or charge may not have been filed, the Board staff may
21 conduct an investigation of the possible violation, and may upon its
22 own motion institute a formal complaint. In the course of the
23 investigation persons appearing before the Board may be required to
24 testify under oath. Upon the filing of a complaint, either by an

1 individual or the Board staff as provided herein, the citation must
2 forthwith be issued by the secretary of the Board over the signature
3 of the secretary and seal of the Board, setting forth the complaint
4 of unprofessional conduct, and giving due notice of the time and
5 place of the hearing by the Board. ~~The citation shall be made~~
6 ~~returnable at the next regular meeting of the Board occurring at~~
7 ~~least thirty (30) days after the service of the citation.~~ In any
8 case in which a physician disputes allegations made in a complaint,
9 the matter shall be set and heard by the Board at the next regular
10 meeting of the Board occurring at least thirty (30) days after the
11 day of service of the citation, exclusive of the day of service, but
12 will be heard not later than the next regular meeting of the Board
13 occurring ninety (90) days after service of the citation, exclusive
14 of the day of service. No continuance may be granted by the Board
15 on its own motion or at the request of the defendant or his or her
16 counsel or at the request of the attorney for the state, unless the
17 record of the case, either orally or in writing, sets forth a
18 finding that the ends of justice served by the granting of such
19 continuance outweigh the best interest of the public and the
20 defendant in a speedy hearing. The defendant shall file a written
21 answer under oath with the secretary of the Board within twenty (20)
22 days after the service of the citation, exclusive of the day of
23 service. The secretary of the Board may extend the time of answer
24 upon satisfactory showing that the defendant is for reasonable cause

1 unable to answer within the twenty (20) days exclusive of the day of
2 service, but in no case shall the time be extended beyond the date
3 of the next regular meeting of the Board, unless a continuance is
4 granted by the Board.

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

7 Section 503.1 The Secretary of the State Board of Medical
8 Licensure and Supervision, upon concurrence of the President of the
9 Board that an emergency exists for which the immediate suspension of
10 a license is imperative for the public health, safety and welfare,
11 may conduct a hearing as contemplated by Section 314 of Title 75 of
12 the Oklahoma Statutes ~~to~~ and may, upon probable cause, suspend
13 temporarily the license of any person under the jurisdiction of the
14 Board.

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

18 A. The State Board of Medical Licensure and Supervision may
19 promulgate rules to create administrative remedies for licensee
20 violations of statutory or regulatory prescribed unprofessional
21 conduct.

22 B. The Board is authorized to prescribe by rule administrative
23 remedies, disciplinary actions and administrative procedures to
24 provide remedies and disciplinary actions for licensee violations of

1 statutory or regulatory prescribed unprofessional conduct, to
2 include fines up to the limits otherwise prescribed by statute or
3 rule.

4 C. Any such administrative action rules promulgated by the
5 Board shall provide procedure:

6 1. For the licensee to contest or dispute any administrative
7 action;

8 2. For procedures for resolution of any such contest or
9 dispute; and

10 3. For appropriate protection of private information consistent
11 with state and federal law.

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

14 Section 508. A. Whenever any license has been procured or
15 obtained by fraud or misrepresentation on the licensure application,
16 or was issued by mistake; or if the diploma of graduation in
17 medicine and surgery or any other credentials required as necessary
18 to the admission to the examination for license were obtained by
19 fraud or misrepresentation on the licensure application, or were
20 issued by mistake; or if the reciprocity endorsement from another
21 state, upon which a license has been issued in this state, was
22 procured by fraud or misrepresentation, or was issued by mistake, it
23 shall be the duty of the State Board of Medical Licensure and
24 Supervision to take appropriate disciplinary action in the same

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

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

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

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

- 23 1. Procuring, aiding or abetting a criminal operation;
24

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

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

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

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

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

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

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

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

20 c. State Board of Health rules, or

21 d. a determination by a judge or jury;

22 8. Dishonorable or immoral conduct which is likely to deceive,
23 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;

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) days after notice is served on the physician, exclusive of the
13 day of service. The physician shall be notified by either personal
14 service or by certified mail with return receipt requested. At the
15 hearing, the physician and the physician's attorney are entitled to
16 present any testimony and other evidence to show why the physician
17 should not be required to submit to the examination. After a
18 complete hearing, the Board shall issue an order either requiring
19 the physician to submit to the examination or withdrawing the
20 request for examination. The medical license of a physician ordered
21 to submit for examination may be suspended until the results of the
22 examination are received and reviewed by the Board;

- 1 16. a. Prescribing, dispensing or administering of controlled
2 substances or narcotic drugs in excess of the amount
3 considered good medical practice,
4 b. prescribing, dispensing or administering controlled
5 substances or narcotic drugs without medical need in
6 accordance with pertinent licensing board standards,
7 or
8 c. prescribing, dispensing or administering opioid drugs
9 in excess of the maximum dosage authorized under
10 Section ~~5 of this act~~ 2-309I of Title 63 of the
11 Oklahoma Statutes;

12 17. Engaging in physical conduct with a patient which is sexual
13 in nature, or in any verbal behavior which is seductive or sexually
14 demeaning to a patient;

15 18. Failure to maintain an office record for each patient which
16 accurately reflects the evaluation, treatment, and medical necessity
17 of treatment of the patient;

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

22 20. Failure to provide a proper and safe medical facility
23 setting and qualified assistive personnel for a recognized medical
24 act, including but not limited to an initial in-person patient

1 examination, office surgery, diagnostic service or any other medical
2 procedure or treatment. Adequate medical records to support
3 diagnosis, procedure, treatment or prescribed medications must be
4 produced and maintained.

5 SECTION 9. AMENDATORY 59 O.S. 2011, Section 509.1, is
6 amended to read as follows:

7 Section 509.1 A. RANGE OF ACTIONS: The State Board of Medical
8 Licensure and Supervision may impose disciplinary actions in
9 accordance with the severity of violation of the Oklahoma Allopathic
10 Medical and Surgical Licensure and Supervision Act. Disciplinary
11 actions may include, but are not limited to the following:

- 12 1. Revocation of the medical license with or without the right
13 to reapply;
- 14 2. Suspension of the medical license;
- 15 3. Probation;
- 16 4. Stipulations, limitations, restrictions, and conditions
17 relating to practice;
- 18 5. Censure, including specific redress, if appropriate;
- 19 6. Reprimand;
- 20 7. A period of free public or charity service;
- 21 8. Satisfactory completion of an educational, training, and/or
22 treatment program or programs; and
- 23 9. Administrative fines of up to Five Thousand Dollars
24 (\$5,000.00) per violation.

1 Provided, as a condition of disciplinary action sanctions, the Board
2 may impose as a condition of any disciplinary action, the payment of
3 costs expended by the Board for any legal fees and costs and
4 probation and monitoring fees including, but not limited to, staff
5 time, salary and travel expense, witness fees and attorney fees.
6 The Board may take such actions singly or in combination as the
7 nature of the violation requires.

8 B. LETTER OF CONCERN: The Board may authorize the secretary to
9 issue a confidential letter of concern to a licensee when evidence
10 does not warrant formal proceedings, but the secretary has noted
11 indications of possible errant conduct that could lead to serious
12 consequences and formal action. The letter of concern may contain,
13 at the secretary's discretion, clarifying information from the
14 licensee.

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

19 D. DISCIPLINARY ACTION AGAINST LICENSEES:

20 1. The Board shall promulgate rules describing acts of
21 unprofessional or unethical conduct by physicians pursuant to the
22 Oklahoma Allopathic Medical and Surgical Licensure and Supervision
23 Act; and
24

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

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

12 E. SURRENDER IN LIEU OF PROSECUTION:

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

- 19 a. expressing the licensee's desire to surrender the
20 license,
21 b. acknowledging that the surrender is freely and
22 voluntarily made, that the licensee has not been
23 subjected to coercion or duress, and that the licensee
24

1 is fully aware of the consequences of the license
2 surrender,

- 3 c. stating that the licensee is the subject of an
4 investigation or proceeding by the Board or a law
5 enforcement or other regulatory agency involving
6 allegations which, if proven, would constitute grounds
7 for disciplinary action by the Board, and
8 d. specifically admitting to and describing the
9 misconduct.

10 2. The sworn written statement must be submitted with the
11 licensee's wallet card and wall certificate. The Secretary or
12 Executive Director of the Board may accept the sworn statement,
13 wallet card and wall certificate from a licensee pending formal
14 acceptance by the Board. The issuance of a complaint and citation
15 by the Board shall not be necessary for the Board to accept a
16 surrender under this subsection. A surrender under this subsection
17 shall be considered disciplinary action by the Board in all cases,
18 even in cases where surrender occurs prior to the issuance of a
19 formal complaint and citation, and shall be reported as disciplinary
20 action by the Board to the public and any other entity to whom the
21 Board regularly reports disciplinary actions.

22 3. As a condition to acceptance of the surrender, the Board may
23 require the licensee to pay the costs expended by the Board for any
24 legal fees and costs and any investigation, probation and monitoring

1 fees including, but not limited to, staff time, salary and travel
2 expense, witness fees and attorney fees.

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

7 F. ALL LICENSED PROFESSIONALS: All disciplinary actions
8 defined in this section are applicable to any and all professional
9 licensees under the legislative jurisdiction of the State Board of
10 Medical Licensure and Supervision.

11 SECTION 10. AMENDATORY 59 O.S. 2011, Section 512, as
12 amended by Section 3, Chapter 176, O.S.L. 2014 (59 O.S. Supp. 2018,
13 Section 512), is amended to read as follows:

14 Section 512. A. The secretary of the State Board of Medical
15 Licensure and Supervision shall be paid an annual salary in an
16 amount fixed by the Board. The Board shall have the authority to
17 expend such funds as are necessary in carrying out the duties of the
18 Board and shall have the authority to hire all necessary personnel,
19 at salaries to be fixed by the Board, as the Board shall deem
20 necessary. The Board shall have the authority to hire attorneys to
21 represent the Board in all legal matters and to assist authorized
22 state and county officers in prosecuting or restraining violations
23 of Section 481 et seq. of this title, and to fix the salaries or per
24 diem of ~~said~~ the attorneys.

1 B. The Board shall have the authority to hire one or more
2 investigators as may be necessary to carry out the provisions of
3 ~~this act~~ the Oklahoma Allopathic Medical and Surgical Licensure and
4 Supervision Act at an annual salary to be fixed by the Board. Such
5 investigators may be commissioned peace officers of this state. In
6 addition such investigators shall have the authority and duty to
7 investigate and inspect the records of all persons in order to
8 determine whether or not a disciplinary action for unprofessional
9 misconduct is warranted or whether the narcotic laws or the
10 dangerous drug laws have been complied with.

11 C. 1. For purposes of this section, investigators shall be
12 peace officers certified by the Council on Law Enforcement Education
13 and Training and shall have statewide jurisdiction to perform the
14 duties authorized by this section. In addition, the investigators
15 shall have all the powers now or hereafter vested by law in peace
16 officers.

17 2. Investigators for the Oklahoma State Board of Medical
18 Licensure and Supervision shall perform such services as are
19 necessary in the investigation of criminal activity or preparation
20 of administrative actions.

21 3. Any licensee or applicant for license subject to the
22 provisions of the Oklahoma Allopathic Medical and Surgical Licensure
23 and Supervision Act shall be deemed to have given consent to any
24 duly authorized investigator of the Board to access, enter or

1 inspect the records, either on-site or at the Board office, or
2 facilities of such licensee or applicant subject to the Oklahoma
3 Allopathic Medical and Surgical Licensure and Supervision Act.
4 Refusal to allow such access, entry or inspection may constitute
5 grounds for the denial, nonrenewal, suspension or revocation of a
6 license. Upon refusal of such access, entry or inspection, pursuant
7 to this section, the Board or a duly authorized representative may
8 make application for and obtain a search warrant from the district
9 court where the facility or records are located to allow such
10 access, entry or inspection.

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

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

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

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

22 Section 513. A. 1. The State Board of Medical Licensure and
23 Supervision is hereby given quasi-judicial powers while sitting as a
24 Board for the purpose of revoking, suspending or imposing other

1 disciplinary actions upon the license of physicians or surgeons of
2 this state, and appeals from its decisions shall be taken to the
3 Supreme Court of this state within thirty (30) days of the date that
4 a copy of the decision is mailed to the appellant, as shown by the
5 certificate of mailing attached to the decision.

6 2. The license of any physician or surgeon who has been
7 convicted of any felony in or without the State of Oklahoma, and
8 whether in a state or federal court, may be suspended by the Board
9 upon the submission thereto of a certified copy of the judgment and
10 sentence of the trial court and the certificate of the clerk of the
11 court of the conviction.

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

22 4. The Board shall also revoke and cancel the license of any
23 physician or surgeon who has been charged in a court of record of
24 this or other states of the United States or in the federal court

1 with the commission of a felony and who is a fugitive from justice,
2 upon the submission of a certified copy of the charge together with
3 a certificate from the clerk of the court that after the commitment
4 of the crime the physician or surgeon fled from the jurisdiction of
5 the court and is a fugitive from justice.

6 B. To the extent necessary to allow the Board the power to
7 enforce disciplinary actions imposed by the Board, in the exercise
8 of its authority, the Board may punish willful violations of its
9 orders and impose additional penalties as allowed by Section 509.1
10 of this title.

11 SECTION 12. AMENDATORY 59 O.S. 2011, Section 518.1, is
12 amended to read as follows:

13 Section 518.1 A. There is hereby established the Allied
14 Professional Peer Assistance Program to rehabilitate allied medical
15 professionals whose competency may be compromised because of the
16 abuse of drugs or alcohol, so that such allied medical professionals
17 can be treated and can return to or continue the practice of allied
18 medical practice in a manner which will benefit the public. The
19 program shall be under the supervision and control of the State
20 Board of Medical Licensure and Supervision.

21 B. The Board may appoint one or more peer assistance evaluation
22 advisory committees, hereinafter called the "allied peer assistance
23 committees". Each of these committees shall be composed of members,
24 the majority of which shall be licensed allied medical professionals

1 with expertise in chemical dependency. The allied peer assistance
2 committees shall function under the authority of the State Board of
3 Medical Licensure and Supervision in accordance with the rules of
4 the Board. The program may be one hundred percent (100%) outsourced
5 to professional groups specialized in this arena. The committee
6 members shall serve without pay, but may be reimbursed for the
7 expenses incurred in the discharge of their official duties in
8 accordance with the State Travel Reimbursement Act.

9 C. The Board may appoint and employ a qualified person or
10 persons to serve as program coordinators and shall fix such person's
11 compensation. The program may employ a director for purposes of
12 ongoing nonclerical administrative duties and shall fix the
13 director's compensation. The Board shall define the duties of the
14 program coordinators and director who shall report directly to the
15 Board.

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

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

23 F. All monies paid pursuant to subsection E of this section
24 shall be deposited in an agency special account revolving fund under

1 the State Board of Medical Licensure and Supervision, and shall be
2 used for the general operating expenses of the Allied Professional
3 Peer Assistance Program, including payment of personal services.

4 G. Records and management information system of the
5 professionals enrolled in the Allied Professional Peer Assistance
6 Program and reports shall be maintained in the program office in a
7 place separate and apart from the records of the Board. The records
8 shall be made public only by subpoena and court order; provided
9 however, confidential treatment shall be cancelled upon default by
10 the professional in complying with the requirements of the program.

11 H. Any person making a report to the Board or to an allied peer
12 assistance committee regarding a professional suspected of
13 practicing allied medical practice while habitually intemperate or
14 addicted to the use of habit-forming drugs, or a professional's
15 progress or lack of progress in rehabilitation, shall be immune from
16 any civil or criminal action resulting from such reports, provided
17 such reports are made in good faith.

18 I. A professional's participation in the Allied Professional
19 Peer Assistance Program in no way precludes additional proceedings
20 by the Board for acts or omissions of acts not specifically related
21 to the circumstances resulting in the professional's entry into the
22 program. However, in the event the professional defaults from the
23 program, the Board may discipline the professional for those acts
24 which led to the professional entering the program.

1 J. The Executive Director of the Board shall suspend the
2 license immediately upon notification that the licensee has
3 defaulted from the Allied Professional Peer Assistance Program, and
4 shall assign a hearing date for the matter to be presented to the
5 Board.

6 K. All treatment information, whether or not recorded, and all
7 communications between a professional and therapist are both
8 privileged and confidential. In addition, the identity of all
9 persons who have received or are receiving treatment services shall
10 be considered confidential and privileged.

11 L. As used in this section, unless the context otherwise
12 requires:

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

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

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

23 SECTION 13. This act shall become effective November 1, 2019.

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