

1 ENGROSSED SENATE  
2 BILL NO. 718

By: McCortney of the Senate

3 and

4 Mize of the House

5  
6 An Act relating to allopathic medicine; amending 59  
7 O.S. 2011, Section 492, as amended by Section 1,  
8 Chapter 40, O.S.L. 2016 (59 O.S. Supp. 2020, Section  
9 492), which relates to definition of the practice of  
10 medicine; adding certain exclusion; and providing an  
11 effective date.

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

13 SECTION 1. AMENDATORY 59 O.S. 2011, Section 492, as  
14 amended by Section 1, Chapter 40, O.S.L. 2016 (59 O.S. Supp. 2020,  
15 Section 492), is amended to read as follows:

16 Section 492. A. Every person shall be regarded as practicing  
17 allopathic medicine within the meaning and provisions of ~~this act~~  
18 the Oklahoma Allopathic Medical and Surgical Licensure and  
19 Supervision Act, who shall append to his or her name the letters  
20 "M.D.", "Physician" or any other title, letters or designation which  
21 represent that such person is a physician, or who shall for a fee or  
22 any form of compensation diagnose and/or treat disease, injury or  
23 deformity of persons in this state by any allopathic legend drugs,  
24 surgery, manual, or mechanical treatment unless otherwise authorized  
by law.

1       B. A hospital or related institution as such terms are defined  
2 in Section 1-701 of Title 63 of the Oklahoma Statutes, which has the  
3 principal purpose or function of providing hospital or medical care,  
4 including but not limited to any corporation, association, trust, or  
5 other organization organized and operated for such purpose, may  
6 employ one or more persons who are duly licensed to practice  
7 medicine in this state without being regarded as itself practicing  
8 medicine within the meaning and provisions of this section. The  
9 employment by the hospital or related institution of any person who  
10 is duly licensed to practice medicine in this state shall not, in  
11 and of itself, be considered as an act of unprofessional conduct by  
12 the person so employed. Nothing provided herein shall eliminate,  
13 limit, or restrict the liability for any act or failure to act of  
14 any hospital, any hospital's employees, or persons duly licensed to  
15 practice medicine.

16       C. The definition of the practice of medicine and surgery shall  
17 include, but is not limited to:

18       1. Advertising, holding out to the public, or representing in  
19 any manner that one is authorized to practice medicine and surgery  
20 in this state;

21       2. Any offer or attempt to prescribe, order, give, or  
22 administer any drug or medicine and surgery for the use of any other  
23 person, except as otherwise authorized by law;

- 1        3.    a.    any offer or attempt, except as otherwise authorized  
2                    by law, to prevent, diagnose, correct~~7~~ or treat in any  
3                    manner or by any means, methods, devices~~7~~ or  
4                    instrumentalities except for manual manipulation any  
5                    disease, illness, pain, wound, fracture, infirmity,  
6                    defect~~7~~ or abnormal physical or mental condition of  
7                    any person~~7~~ including the management of pregnancy and  
8                    parturition, except as otherwise authorized by law,
- 9        b.    except as provided in subsection D of this section,  
10                   performance by a person within or outside of this  
11                   state, through an ongoing regular arrangement, of  
12                   diagnostic or treatment services~~7~~ including~~7~~ but not  
13                   limited to, stroke prevention and treatment, through  
14                   electronic communications for any patient whose  
15                   condition is being diagnosed or treated within this  
16                   state by a physician duly licensed and practicing in  
17                   this state. A person who performs any of the  
18                   functions covered by this subparagraph submits himself  
19                   or herself to the jurisdiction of the courts of this  
20                   state for the purposes of any cause of action  
21                   resulting from the functions performed, and
- 22        c.    nothing in the Oklahoma Allopathic Medical and  
23                   Surgical Licensure and Supervision Act shall be  
24                   construed to affect or give jurisdiction to the Board

1                   over any person other than medical doctors or persons  
2                   holding themselves out as medical doctors;

3           4. Any offer or attempt to perform any surgical operation upon  
4 any person, except as otherwise authorized by law; and

5           5. The use of the title Doctor of Medicine, Physician, Surgeon,  
6 Physician and Surgeon, Dr., M.D. or any combination thereof in the  
7 conduct of any occupation or profession pertaining to the  
8 prevention, diagnosis, or treatment of human disease or condition  
9 unless, where appropriate, such a designation additionally contains  
10 the description of another branch of the healing arts for which one  
11 holds a valid license in this state.

12           D. The practice of medicine and surgery, as defined in this  
13 section, shall not include:

14           1. A student while engaged in training in a medical school  
15 approved by the Board or while engaged in graduate medical training  
16 under the supervision of the medical staff of a hospital or other  
17 health care facility approved by the state medical board for such  
18 training, except that a student engaged in graduate medical training  
19 shall hold a license issued by the Board for such training;

20           2. Any person who provides medical treatment in cases of  
21 emergency where no fee or other consideration is contemplated,  
22 charged or received;

23           3. A commissioned medical officer of the armed forces of the  
24 United States or medical officer of the United States Public Health

1 Service or the Department of Veterans Affairs of the United States  
2 in the discharge of official duties and/or within federally  
3 controlled facilities; and provided that such person shall be fully  
4 licensed to practice medicine and surgery in one or more  
5 jurisdictions of the United States; provided further that such  
6 person who holds a medical license in this state shall be subject to  
7 the provisions of the Oklahoma Allopathic Medical and Surgical  
8 Licensure and Supervision Act;

9 4. Any person licensed under any other act when properly  
10 practicing in the healing art for which that person is duly  
11 licensed;

12 5. The practice of those who endeavor to prevent or cure  
13 disease or suffering by spiritual means or prayer;

14 6. Any person administering a domestic or family remedy to a  
15 member of such person's own family;

16 7. Any person licensed to practice medicine and surgery in  
17 another state or territory of the United States who renders  
18 emergency medical treatment or briefly provides critical medical  
19 service at the specific lawful direction of a medical institution or  
20 federal agency that assumes full responsibility for that treatment  
21 or service and is approved by the Board;

22 8. Any person who is licensed to practice medicine and surgery  
23 in another state or territory of the United States whose sole  
24 purpose and activity is limited to brief actual consultation with a

specific physician who is licensed to practice medicine and surgery by the Board, other than a person with a special or restricted license; ~~or~~

9. Any person who is licensed to practice medicine and surgery in another state or territory of the United States who engages in consultation through telehealth with a patient physically located in this state for the sole purpose of providing an expert second opinion; or

10. The practice of any other person as licensed by appropriate agencies of this state, provided that such duties are consistent with the accepted standards of the person's profession and the person does not represent himself or herself as a Doctor of Medicine, Physician, Surgeon, Physician and Surgeon, Dr., M.D., or any combination thereof.

E. Nothing in the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act shall prohibit:

1. The service rendered by a physician's unlicensed trained assistant, if such service is rendered under the supervision and control of a licensed physician pursuant to Board rules, provided such rules are not in conflict with the provisions of any other healing arts licensure act or rules promulgated pursuant to such act; or

2. The service of any other person duly licensed or certified by the state to practice the healing arts.

1 F. Nothing in the Oklahoma Allopathic Medical and Surgical  
2 Licensure and Supervision Act shall prohibit services rendered by  
3 any person not licensed by the Board and practicing any  
4 nonallopathic healing practice.

5 G. Nothing in the Oklahoma Allopathic Medical and Surgical  
6 Licensure and Supervision Act shall be construed as to require a  
7 physician to secure a Maintenance of Certification (MOC) as a  
8 condition of licensure, reimbursement, employment or admitting  
9 privileges at a hospital in this state. For the purposes of this  
10 subsection, "Maintenance of Certification (MOC)" shall mean a  
11 continuing education program measuring core competencies in the  
12 practice of medicine and surgery and approved by a nationally-  
13 recognized accrediting organization.

14 SECTION 2. This act shall become effective November 1, 2021.

15 Passed the Senate the 10th day of March, 2021.

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Presiding Officer of the Senate

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19 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
20 2021.

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Presiding Officer of the House  
of Representatives

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