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February 8, 2021

SENATE BILL NO. 718

By: McCortney of the Senate

and

Mize of the House

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

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

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

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

1 surgery, manual, or mechanical treatment unless otherwise authorized
2 by law.

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

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

20 1. Advertising, holding out to the public, or representing in
21 any manner that one is authorized to practice medicine and surgery
22 in this state;
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1 2. Any offer or attempt to prescribe, order, give, or
2 administer any drug or medicine and surgery for the use of any other
3 person, except as otherwise authorized by law;

4 3. a. any offer or attempt, except as otherwise authorized
5 by law, to prevent, diagnose, correct~~7~~ or treat in any
6 manner or by any means, methods, devises~~7~~ or
7 instrumentalities except for manual manipulation any
8 disease, illness, pain, wound, fracture, infirmity,
9 defect~~7~~ or abnormal physical or mental condition of
10 any person~~7~~ including the management of pregnancy and
11 parturition, except as otherwise authorized by law,

12 b. except as provided in subsection D of this section,
13 performance by a person within or outside of this
14 state, through an ongoing regular arrangement, of
15 diagnostic or treatment services~~7~~ including~~7~~ but not
16 limited to, stroke prevention and treatment, through
17 electronic communications for any patient whose
18 condition is being diagnosed or treated within this
19 state by a physician duly licensed and practicing in
20 this state. A person who performs any of the
21 functions covered by this subparagraph submits himself
22 or herself to the jurisdiction of the courts of this
23 state for the purposes of any cause of action
24 resulting from the functions performed, and

1 c. nothing in the Oklahoma Allopathic Medical and
2 Surgical Licensure and Supervision Act shall be
3 construed to affect or give jurisdiction to the Board
4 over any person other than medical doctors or persons
5 holding themselves out as medical doctors;

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

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

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

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

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

4 3. A commissioned medical officer of the armed forces of the
5 United States or medical officer of the United States Public Health
6 Service or the Department of Veterans Affairs of the United States
7 in the discharge of official duties and/or within federally
8 controlled facilities; and provided that such person shall be fully
9 licensed to practice medicine and surgery in one or more
10 jurisdictions of the United States; provided further that such
11 person who holds a medical license in this state shall be subject to
12 the provisions of the Oklahoma Allopathic Medical and Surgical
13 Licensure and Supervision Act;

14 4. Any person licensed under any other act when properly
15 practicing in the healing art for which that person is duly
16 licensed;

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

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

21 7. Any person licensed to practice medicine and surgery in
22 another state or territory of the United States who renders
23 emergency medical treatment or briefly provides critical medical
24 service at the specific lawful direction of a medical institution or

1 federal agency that assumes full responsibility for that treatment
2 or service and is approved by the Board;

3 8. Any person who is licensed to practice medicine and surgery
4 in another state or territory of the United States whose sole
5 purpose and activity is limited to brief actual consultation with a
6 specific physician who is licensed to practice medicine and surgery
7 by the Board, other than a person with a special or restricted
8 license; ~~or~~

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

14 10. The practice of any other person as licensed by appropriate
15 agencies of this state, provided that such duties are consistent
16 with the accepted standards of the person's profession and the
17 person does not represent himself or herself as a Doctor of
18 Medicine, Physician, Surgeon, Physician and Surgeon, Dr., M.D.,⁷ or
19 any combination thereof.

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

22 1. The service rendered by a physician's unlicensed trained
23 assistant, if such service is rendered under the supervision and
24 control of a licensed physician pursuant to Board rules, provided

1 such rules are not in conflict with the provisions of any other
2 healing arts licensure act or rules promulgated pursuant to such
3 act; or

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

6 F. Nothing in the Oklahoma Allopathic Medical and Surgical
7 Licensure and Supervision Act shall prohibit services rendered by
8 any person not licensed by the Board and practicing any
9 nonallopathic healing practice.

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

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

20 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
21 February 8, 2021 - DO PASS
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