

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 4294

By: Roberts (Sean)

AS INTRODUCED

An Act relating to medical licensure; amending 59 O.S. 2021, Section 637, which relates to medical licensure; creating license protections for physicians prescribing treatments related to COVID-19; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2021, Section 637, is amended to read as follows:

Section 637. A. The State Board of Osteopathic Examiners may refuse to admit a person to an examination or may refuse to issue or reinstate or may suspend or revoke any license issued or reinstated by the Board upon proof that the applicant or holder of such a license:

1. Has obtained a license, license renewal or authorization to sit for an examination, as the case may be, through fraud, deception, misrepresentation or bribery; or has been granted a license, license renewal or authorization to sit for an examination based upon a material mistake of fact;

1        2. Has engaged in the use or employment of dishonesty, fraud,  
2 misrepresentation, false promise, false pretense, unethical conduct  
3 or unprofessional conduct, as may be determined by the Board, in the  
4 performance of the functions or duties of an osteopathic physician,  
5 including but not limited to the following:

- 6            a. obtaining or attempting to obtain any fee, charge,  
7                    tuition or other compensation by fraud, deception or  
8                    misrepresentation; willfully and continually  
9                    overcharging or overtreating patients; or charging for  
10                    visits to the physician's office which did not occur  
11                    or for services which were not rendered,
- 12            b. using intimidation, coercion or deception to obtain or  
13                    retain a patient or discourage the use of a second  
14                    opinion or consultation,
- 15            c. willfully performing inappropriate or unnecessary  
16                    treatment, diagnostic tests or osteopathic medical or  
17                    surgical services,
- 18            d. delegating professional responsibilities to a person  
19                    who is not qualified by training, skill, competency,  
20                    age, experience or licensure to perform them, noting  
21                    that delegation may only occur within an appropriate  
22                    doctor-patient relationship, wherein a proper patient  
23                    record is maintained including, but not limited to, at  
24                    the minimum, a current history and physical,

- 1 e. misrepresenting that any disease, ailment, or  
2 infirmity can be cured by a method, procedure,  
3 treatment, medicine or device,
- 4 f. acting in a manner which results in final disciplinary  
5 action by any professional society or association or  
6 hospital or medical staff of such hospital in this or  
7 any other state, whether agreed to voluntarily or not,  
8 if the action was in any way related to professional  
9 conduct, professional competence, malpractice or any  
10 other violation of the Oklahoma Osteopathic Medicine  
11 Act,
- 12 g. signing a blank prescription form; or dispensing,  
13 prescribing, administering or otherwise distributing  
14 any drug, controlled substance or other treatment  
15 without sufficient examination or the establishment of  
16 a physician-patient relationship, or for other than  
17 medically accepted therapeutic or experimental or  
18 investigational purpose duly authorized by a state or  
19 federal agency, or not in good faith to relieve pain  
20 and suffering, or not to treat an ailment, physical  
21 infirmity or disease, or violating any state or  
22 federal law on controlled dangerous substances  
23 including, but not limited to, prescribing, dispensing  
24 or administering opioid drugs in excess of the maximum

limits authorized in Section 2-309I of Title 63 of the  
Oklahoma Statutes,

h. engaging in any sexual activity within a physician-  
patient relationship,

i. terminating the care of a patient without adequate  
notice or without making other arrangements for the  
continued care of the patient,

j. failing to furnish a copy of a patient's medical  
records upon a proper request from the patient or  
legal agent of the patient or another physician; or  
failing to comply with any other law relating to  
medical records,

k. failing to comply with any subpoena issued by the  
Board,

l. violating a probation agreement or order with this  
Board or any other agency, and

m. failing to keep complete and accurate records of  
purchase and disposal of controlled drugs or narcotic  
drugs;

3. Has engaged in gross negligence, gross malpractice or gross  
incompetence;

4. Has engaged in repeated acts of negligence, malpractice or  
incompetence;

1        5. Has been finally adjudicated and found guilty, or entered a  
2 plea of guilty or nolo contendere in a criminal prosecution, for any  
3 offense reasonably related to the qualifications, functions or  
4 duties of an osteopathic physician, whether or not sentence is  
5 imposed, and regardless of the pendency of an appeal;

6        6. Has had the authority to engage in the activities regulated  
7 by the Board revoked, suspended, restricted, modified or limited, or  
8 has been reprimanded, warned or censured, probated or otherwise  
9 disciplined by any other state or federal agency whether or not  
10 voluntarily agreed to by the physician including, but not limited  
11 to, the denial of licensure, surrender of the license, permit or  
12 authority, allowing the license, permit or authority to expire or  
13 lapse, or discontinuing or limiting the practice of osteopathic  
14 medicine pending disposition of a complaint or completion of an  
15 investigation;

16        7. Has violated or failed to comply with provisions of any act  
17 or regulation administered by the Board;

18        8. Is incapable, for medical or psychiatric or any other good  
19 cause, of discharging the functions of an osteopathic physician in a  
20 manner consistent with the public's health, safety and welfare;

21        9. Has been guilty of advertising by means of knowingly false  
22 or deceptive statements;

23        10. Has been guilty of advertising, practicing, or attempting  
24 to practice under a name other than one's own;

1        11. Has violated or refused to comply with a lawful order of  
2 the Board;

3        12. Has been guilty of habitual drunkenness, or habitual  
4 addiction to the use of morphine, cocaine or other habit-forming  
5 drugs;

6        13. Has been guilty of personal offensive behavior, which would  
7 include, but not be limited to, obscenity, lewdness, and  
8 molestation;

9        14. Has performed an abortion as defined by Section 1-730 of  
10 Title 63 of the Oklahoma Statutes, except for an abortion necessary  
11 to prevent the death of the mother or to prevent substantial or  
12 irreversible physical impairment of the mother that substantially  
13 increases the risk of death. The performance of an abortion on the  
14 basis of the mental or emotional health of the mother shall be a  
15 violation of this paragraph, notwithstanding a claim or diagnosis  
16 that the woman may engage in conduct which she intends to result in  
17 her death. The Board shall impose a penalty as provided in this  
18 section and in Section 637.1 of this title on a licensee who  
19 violates this paragraph. The penalty shall include, but not be  
20 limited to, suspension of the license for a period of not less than  
21 one (1) year; or

22        15. Has been adjudicated to be insane, or incompetent, or  
23 admitted to an institution for the treatment of psychiatric  
24 disorders.

1       B. A physician shall not be penalized by a refusal to renew the  
2 individual's license, license suspension, or revocation for  
3 prescribing or recommending treatments for COVID-19.

4       C. The State Board of Osteopathic Examiners shall neither  
5 refuse to renew, nor suspend, nor revoke any license, however, for  
6 any of these causes, unless the person accused has been given at  
7 least twenty (20) days' notice in writing of the charge against him  
8 or her and a public hearing by the Board; provided, three-fourths  
9 (3/4) of a quorum present at a meeting may vote to suspend a license  
10 in an emergency situation if the licensee affected is provided a  
11 public hearing within thirty (30) days of the emergency suspension.

12       ~~C.~~ D. The State Board of Osteopathic Examiners shall have the  
13 power to order or subpoena the attendance of witnesses, the  
14 inspection of records and premises and the production of relevant  
15 books and papers for the investigation of matters that may come  
16 before them. The presiding officer of the Board shall have the  
17 authority to compel the giving of testimony as is conferred on  
18 courts of justice.

19       ~~D.~~ E. Any osteopathic physician in the State of Oklahoma whose  
20 license to practice osteopathic medicine is revoked or suspended  
21 under this section shall have the right to seek judicial review of a  
22 ruling of the Board pursuant to the Administrative Procedures Act.

23       ~~E.~~ F. The Board may enact rules and regulations pursuant to the  
24 Administrative Procedures Act setting out additional acts of

1 unprofessional conduct, which acts shall be grounds for refusal to  
2 issue or reinstate, or for action to condition, suspend or revoke a  
3 license.

4 SECTION 2. This act shall become effective November 1, 2022.

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