

Handbook



State of Oklahoma

Board of Medical Licensure & Supervision

October 2011

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**OKLAHOMA ALLOPATHIC
MEDICAL AND SURGICAL
LICENSURE AND SUPERVISION ACT
Title 59 O.S., Sections 480 - 518**

and the

***Oklahoma Administrative Code
Title 435**

This publication is issued by the Oklahoma State Board of Medical Licensure and Supervision, P.O. Box 18256, Oklahoma City, Oklahoma, 73154-0256.

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**Board of Medical
Licensure and Supervision**

General Information

Section I: Statement of Purpose

A license to practice medicine and surgery in this state is a privilege granted by the Legislature through the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act. On behalf of the people of the State, the Legislature created the Oklahoma Board of Medical Licensure and Supervision to regulate the practice of medicine, issue licensure where appropriate and, in general, assure the public that the practice of medicine will be conducted with reasonable skill and safety.

To enforce the Act, the Board reviews applications for licensure and complaints relative to the conduct of licensed allopathic physicians. In addition, the Board makes rules and policies in conformity with the stated purpose of the Board and the mission mandated by law.

Section II: Definitions

Board – The Oklahoma State Board of Medical Licensure and Supervision

License – That document granted by the Board that authorizes an allopathic physician to practice medicine and surgery in the State of Oklahoma.

Statute/Law – Specific tenets passed by the Legislature requiring the Board of Medical Licensure and Supervision to perform certain functions or make certain decisions. The Board cannot make exceptions to a law and cannot interpret a law contrary to its stated purpose.

Rules – Specific details in the Oklahoma Administrative Code (OAC) setting out functions or explanations of a law.

Supervise – to oversee for direction. Supervision implies that there is appropriate referral, consultation, and collaboration between the supervisor and supervised, with the physician/patient relationship remaining intact.

Direct Supervision – requires the physical presence of the supervising physician in the office or operating suite before, during and after the treatment or procedure and includes diagnosis, authorization, and evaluation of the treatment or procedure with the physician/patient relationship remaining intact. “Direct Supervision” and “Supervision and Control” are synonymous in this law and these rules.

Section III: Board of Medical Licensure and Supervision

The Board is composed of nine members – seven are physicians practicing in the State of Oklahoma and two are citizens of the state who represent the public. The Board sits as a regulatory body, having quasi-judicial authority. It has the power to set qualifications, make rules and act in the best interest of the public when regulating the profession of allopathic medicine.

Each physician member of the Board is appointed by the sitting Governor and serves seven years. A new physician member is appointed each year. The public members, also appointed by the governor, serve coterminous with the Governor. The officers of the Board are the President and Vice President, each elected annually. The Secretary/Medical Advisor is a physician appointed by the Board who is not a Board member.

The Board staff consists of legal, administrative, clerical and investigative positions. The Board maintains a web site at www.okmedicalboard.org where information regarding licensees, current laws and rules, records of past meetings and other information is available.

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Section IV: Examinations

The Board processes applications for Step 3 of the United States Medical Licensing Examination (USMLE). To be eligible to sit for USMLE Step 3, the applicant must submit a completed application for licensure by examination and have passed Step 1 and Step 2 of the USMLE. OAC 435:10-4-6 (g) sets out the following requirements regarding exam failures:

(1) Any applicant who fails any part of a licensing examination three times will not be eligible for a license.

(2) If a combination of NBME, FLEX and/or USMLE is utilized, any applicant who has failed more than six (6) examinations will not be eligible for a license.

(3) If an applicant has achieved certification by an American Board of Medical Specialties (ABMS) Board, an exception to (1) and (2) may be granted by a vote of the Board.

Section V: Requirements for Full Licensure

The law requires that applicants for licensure possess a valid degree of Doctor of Medicine from a medical college or school located in the United States, its territories or possessions, or Canada. The Board, or a private nonprofit accrediting body approved by the Board, must have approved such college or school at the time the degree was conferred. International medical graduates must possess the degree of Doctor of Medicine or a Board-approved equivalent. Such degree must be based on satisfactory completion of educational programs from a school with education and training substantially equivalent to that offered by the University of Oklahoma College of Medicine.

The law further requires completion of twelve (12) months progressive postgraduate medical training approved by the Board. The Board requires twenty-four (24) months of Board-approved progressive postgraduate medical training for international medical graduates. The Board does not pre-approve the training.

The Board considers each application individually and meeting the above criteria does not guarantee issuance of a license. Factors considered include, but are not limited to, examination, educational background, post-graduate training, achievement in specialties, and personal history of moral and ethical conduct.

Section VI: Graduates of Foreign Medical Schools

“**Foreign medical school**” is defined as a medical school located outside of the United States. “**Foreign applicant**” means an applicant who is a graduate of a foreign medical school. Foreign applicants must meet all requirements for licensure as set out in Section 493.2 of Title 59 and the rules adopted by the Board. Below are listed a few of the requirements.

☞ Documents not printed in the English language must be translated into English by a translator approved by the Board.

☞ If the Board is unable to verify information related to an applicant or the applicant’s medical school, the Board may reject the application or require the applicant to score ten (10) percentage points higher on a medical licensure examination that is otherwise required.

☞ Foreign applicants shall provide a certified copy of the Educational Commission for Foreign Medical Graduates (ECFMG) Certificate to the Board at such time and in such manner as required by the Board.

☞ Graduates of foreign medical schools must submit a tape-recorded reading of a written selection created by the Board and evaluated by the Secretary as to the ability of the applicant to communicate in the English language or take an oral examination as determined by the Board.

☞ An applicant from a foreign medical school shall provide the Board with proof of successful completion of twenty-four (24) months of progressive post-graduate medical training, obtained in the same medical specialty, from a program approved by:

- (1) The American Council on Graduate Medical Education (ACGME);
- (2) The Royal College of Physicians and Surgeons of Canada;
- (3) The College of Family Physicians of Canada;
- (4) The Royal College of Surgeons of Edinburgh;
- (5) The Royal College of Surgeons of England;
- (6) The Royal College of Physicians and Surgeons of Glasgow; or
- (7) The Royal College of Surgeons in Ireland.

☞ If Fellowships are used to meet post-graduate education requirements, the Fellowships must be approved by the American Council on Graduate Medical Education (ACGME) and be conducted in an ACGME approved facility. Clerkships shall not constitute necessary medical post-graduate training required for licensure.

☞ The applicant must provide written proof of ability to work in the United States as authorized by the United State Immigration and Naturalization Service. [59 O.S. 493.2; OAC 435:10-4-5]

Section VII: Temporary and Special Licensure

As is set out in “**Definitions**” [Section II], licensure is the issued authority to practice medicine and surgery. The Board has the authority to issue temporary licensure and special licensure for post-graduate training.

Temporary licensure may be issued to an applicant who has met all requirements for a full and unrestricted medical license. The temporary license will automatically terminate on the date of the next Board meeting at which the applicant may be considered for full licensure.

Individuals entering postgraduate training in Oklahoma who do not meet the requirements for full licensure are required to obtain a special license for training purposes. Residents may apply for a full and unrestricted medical license upon meeting all requirements.

Section VIII: Procedures for Filing a Complaint/ Investigations

Complaints may be filed by anyone. The public may phone in a complaint or submit it in writing. Other professionals such as pharmacists, hospital administrators, law enforcement personnel, etc., also may submit a complaint. Forms and instructions for filing complaints are available on the Board's web site (www.okmedicalboard.org).

Physicians are required to report to the Board unprofessional conduct committed by another physician. Physicians must also inform the Board about a licensee or any other health care professional in a state of physical or mental health that they suspect constitutes a threat to the public.

An investigator employed by the Board may make discoveries in the course of an investigation of one doctor that may lead to the investigation of another doctor.

After a recommendation is made to the Secretary of the Board, a decision will be made: the physician may be cited for a full evidentiary hearing, asked to appear informally before the Board, asked to meet with the Secretary or his/her designee, or the case may be closed with no action.

The doctor may or may not know he is being investigated. As peace officers of the State of Oklahoma, investigators have authority to enforce the laws of this State on the same level as the officers of the Oklahoma State Bureau of Investigation and the Oklahoma Bureau of Narcotics and Dangerous Drugs Control. They may make covert investigations, obtain search warrants or search property on probable cause. They also carry out the enforcement of sanctions imposed by the Board in hearings.

Section IX: Impaired Physicians

The Oklahoma Allopathic Medical And Surgical Licensure and Supervision Act empowers the Board to deal with physicians who cannot practice with reasonable skill and safety. There are a variety of reasons why a physician may be impaired or dysfunctional. The most frequent impairment is caused by drug or alcohol addiction but a doctor may be dysfunctional for other reasons such a mental disability, stress, emotional instability, illness, etc.

It is not the role of the Board to diagnose and treat. Although its primary purpose is to protect the public, the Board is anxious to provide direction and guidance for rehabilitation and continued support for the impaired physician. The Board employs compliance coordinators to assist in monitoring the progress of physicians found to be impaired but functioning under a structured practice designed by the Board. These coordinators are primarily used to assure the Board that the doctor on probation is complying with terms set by the Board, but they also have another responsibility – to provide support and guidance to the physician. They are well versed in recovery and emotional distress. They are available twenty-four hours a day to assist the doctor in dealing with problems that may arise. They are educated and trained in dealing with situations that may render a doctor dysfunctional. It has become apparent that a dysfunctional spouse is as detrimental to the doctor's stability as his/her own impairment. Therefore, do not forget that this Board, through its contact with compliance consultants and the Oklahoma State Medical Association can be a valuable resource for dealing with the dysfunctional spouse.

Although the Board prefers to handle impairment through the physician's voluntary effort, it will exercise its duty to mandate licensure restrictions without hesitation.

Section X: Violations/Disciplinary Action

A list of actions that constitute unlawful conduct can be found in § 509 of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act and 435:10-7-4 of the Oklahoma Administrative Code. Notice the paragraph that begins § 509 states the Board is not limited to prosecution based on this list. It may find that other acts not listed constitute a violation and may consider these.

The Board is concerned with the practice of medicine along with the personal and professional conduct of the physician. Therefore, acts that are directly and indirectly related to the practice of medicine are investigated. The Board is charged with assuring the public that the doctor will practice ethically, with competency and will be of good moral character.

Section XI: Annual License Renewal

The practice of medicine in Oklahoma without an ACTIVE license is illegal.

Each year licensees must apply for renewal and pay the appropriate fee on or before the first day of the month of initial licensure. Any person practicing medicine and surgery in Oklahoma without having the legal possession of a **current** license is guilty of a felony. Upon conviction, the licensee may be fined and/or imprisoned. [59 O.S. § 491]

The Medical Board sends out a 60-day and a 30-day reminder notice alerting physicians to renew their licenses. The reminder cards specify two (2) options for renewing a medical license. One is to renew completely on-line at www.okmedicalboard.org with a credit card or electronic transfer. The second option is to go on-line and complete the form as though submitting it on-line but at the point of selecting the payment method, the form can be printed, signed and sent to the Medical Board with a check, money order, etc.

By law, each doctor is required to carry his wallet card on his person at all times while engaged in the practice of medicine and surgery and to advise the Board office of any change of address. Ninety-nine percent of the doctors who fail to renew did not notify the Board of a change of address and therefore, did not get a renewal notice.

A licensee who fails to apply for renewal sixty days from the end of the previous renewal period will have his license suspended. To reinstate a suspended license, a doctor must submit an application to the Secretary of the Board on forms provided, pay a reinstatement fee, and meet other requirements set by law. See *OAC 435:1-1-7 Fees* for the current fee schedule.

Section XII: Continuing Medical Education

Applicants for re-registration (renewal) of licensure must certify every three years that they have completed 60 hours of Category 1 continuing medical education (C.M.E.) during the preceding three years. Newly licensed physicians are required to begin reporting three years from the date licensure is granted.

Each year a random selection of licensees are audited for verification that C.M.E. requirements have been met.

The Board accepts as verification:

(A) Current American Medical Association Physician Recognition Award (AMAPRA);

(B) Specialty board certification or recertification by an American Board of Medical Specialties (ABMS) specialty board obtained during the three year reporting period;

(C) Proof of residency or fellowship training during the preceding three years (fifty (50) hours of CME may be awarded for each completed year of training);

(D) Copies of certificates for the Category I education.

Licensees selected for audit must submit verification of meeting the CME requirement. Failure to submit such records constitutes an incomplete application and will result in the application being returned to the licensee and the licensee being unable to practice.

Licensees reinstating a license for any reason other than past disciplinary action will keep the same renewal date as their previous license regardless of the date the license is reinstated. Reinstated licensees will not be asked about CME until three years from the next regular annual renewal date.

**CME compliance may be an imposed requirement of a disciplinary Board Order with regard to a license revocation or suspension and subsequent reinstatement.*

Section XIII: Controlled Substance Registration

The handling of controlled dangerous substances in Oklahoma without an active controlled substance registration from the Oklahoma Bureau of Narcotics and Dangerous Drugs Control (OBNDCC) AND a Drug Enforcement Administration (DEA) registration (with an Oklahoma address) is illegal.

ORIGINAL REGISTRATION

After you obtain licensure you may contact the OBNDCC for an application. The address and telephone numbers are:

OBNDCC – Registration, 4545 N. Lincoln, Suite 11, Oklahoma City, Oklahoma, 73105 (405) 530-3131 or 1-800-522-8031. Web site: www.obndd.state.ok.us

For DEA registration matters, contact:

In Dallas – (888) 336-4704 or (214) 366-6900

In Washington, D.C. – (800) 882-9539 (automated service available)

In Oklahoma City – 9900 Broadway Extension, Suite 250, Oklahoma City, Oklahoma, 73114, (405) 475-7500

In Tulsa 7615 E. 63rd Place, Tulsa, Oklahoma, 74133, (918) 459-9600.

Web site: www.deadiversion.usdoj.gov

For DEA address change contact:

DEA South Central Office 10160 Technology Blvd., East, Dallas, Texas, 75220

Care needs to be taken when completing the applications to ensure registration in the desired Schedules is received. Each requested schedule must be indicated or it will be omitted from the registration. State and federal registration should be at the same address and for the same schedules. The registrant must be registered at each location where controlled substances are stored. The address must be the physical location where the registrant practices. A post office box number may be added if necessary for mail delivery. Processing time for state registration is approximately three days. Federal registration requires four to six weeks for processing. Remember, both registrations are needed to legally handle (prescribe, dispense or administer) controlled dangerous substances.

RENEWAL

State – OBNDCC renewal of registration is October 31. Renewal applications are sent out in August. Permits are issued for three years.

Federal – DEA registrations are issued for a three-year period and expire at various times throughout the year. Renewals are mailed to the registered address approximately 45 days prior to the expiration date. The certificate indicates the expiration date. If the renewal is not received within two weeks of the expiration date, it is the registrant's responsibility to notify the registration assistant in the Dallas office. Since both agencies, OBN and DEA, mail applications to the registered address, it is imperative that both agencies be notified of a change of address.

When moving to Oklahoma from another state, registrants must modify their existing DEA registrations to show an Oklahoma address unless the intention is to practice in more than one state or more than one location within the state. In that case, there must be a DEA registration for each state and/or location in which the registrant practices.

Section XIV: Position Statement/Guidelines Regarding Sexual Misconduct

Sexual misconduct by physicians in regard to contacts with patients includes, but is not limited to, the following and may be the basis for disciplinary action:

- A. Any physical contact or bodily movement intended to express or arouse erotic interest.
- B. Any relationship between a physician and patient where sexual behavior occurs.
- C. Any sexual behavior which occurs between a physician and his/her patient within the context, proximate or distant, of a professional doctor-patient relationship.
- D. Any behavior such as gestures or expressions that are sexually demeaning to a patient or which demonstrate a lack of respect for the patient's privacy including but not limited to making sexual comments about a patient's body or underclothing, requesting sexual history details when not indicated clinically, or conversing about the physician's sexual fantasies.
- E. Physician-patient sex, whether or not initiated by the patient, including, but not limited to sexual intercourse, masturbation, genital to genital contact, oral to genital contact, oral to anal contact and genital to anal contact.
- F. There exists in a physician's position such a vast disparity of power and influence between the physician and those affected by this disparity that sexual relationships are improper and unprofessional. Examples of this would include parents of dependent patients and spouses/sexual partners of patients. Exploitation of any persons need for medical care or advice for the physician's sexual gratification shall be deemed sexual misconduct.

Position Statement:

- A. "Non-sexual" touching of patients may at times be appropriate; it can be therapeutic and does not constitute sexual misconduct. Examples include a pat on the back, holding of a hand or putting an arm over the shoulder of a patient. Caution should be exercised, however, since the patient may misinterpret such gestures.
- B. In the context of medical treatment, a sexual relationship with a patient is absolutely prohibited. In the context of a continuing professional relationship, a sexual relationship is absolutely prohibited. Outside of the context of medical treatment, but within the context of a professional relationship, a sexual relationship is absolutely prohibited. Outside of the context of medical treatment and outside of a formal professional relationship, a sexual relationship with a patient may or may not be considered sexual misconduct depending on whether or not it is determined that a doctor-patient relationship is still ongoing. Factors which may be considered in determining whether the relationship is ongoing include, but are not limited to, patient transference or psychological or emotional dependence.
- C. **Termination of the doctor-patient relationship:** Because of transference, counter-transference, physician knowledge, or patient psychological or emotional dependence and vulnerability, a professional relationship may take months or years to end and in some cases may never be terminated for purposes of sexual contact. As long as there is a perceived doctor-patient relationship in the eyes of the patient, doctor, or the board, the physician is at risk for disciplinary action based on sexual misconduct.
- D. Consent by the patient shall be no defense. In view of the unique relationship between doctors and patients and of the patient's position of vulnerability and dependence, consent by the patient may be of little significance.
- E. It is the physician's responsibility to prevent and/or terminate any patient-initiated sexual contact. Failure to do so places the physician, and not the patient, at risk for disciplinary action based on sexual misconduct.

Adopted: 11-18-94; Amended: 11-21-97

Section XV: Law/Policy Statement on Telemedicine

LAW

Title 59 O.S., Section 492C. The definition of the practice of medicine and surgery shall include, but is not limited to:

1. Advertising, holding out to the public, or representing in any manner that one is authorized to practice medicine and surgery in this state;
2. Any offer or attempt to prescribe, order, give, or administer any drug or medicine and surgery for the use of any other person, except as otherwise authorized by law;
3.
 - a. Any offer or attempt, except as otherwise authorized by law, to prevent, diagnose, correct, or treat in any manner or by any means, methods, devices, or instrumentalities except for manual manipulation any disease, illness, pain, wound, fracture, infirmity, defect, or abnormal physical or mental condition of any person, including the management of pregnancy and parturition, except as otherwise authorized by law.
 - b. Except as provided in subsection D of this section, performance by a person outside of this state, through an ongoing regular arrangement, of diagnostic or treatment services through electronic communications for any patient whose condition is being diagnosed or treated within this state. A person who performs any of the functions covered by this subparagraph submits himself or herself to the jurisdiction of the courts of this state for the purposes of any cause of action resulting from the functions performed.
 - c. Nothing in the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act shall be construed to affect or give jurisdiction to the Board over any person other than medical doctors or persons holding themselves out as medical doctors;
4. Any offer or attempt to perform any surgical operation upon any person, except as otherwise authorized by law; and
5. The use of the title Doctor of Medicine, Physician, Surgeon, Physician and Surgeon, Dr., M.D. or any combination thereof in the conduct of any occupation or profession pertaining to the prevention, diagnosis, or treatment of human disease or condition unless, where appropriate, such a designation additionally contains the description of another branch of the healing arts for which one holds a valid license in this state.

POLICY STATEMENT

This Board acknowledges that due to technological advances there are occurring increasing frequency of medical relationship in which there is a geographical distance between the doctor and the patient. It further states that there are potential benefits to patients including increased access to health care, expanded utilization of specialty expertise, rapid availability of patient records and reduced cost of patient care.

The practice of medicine at distance, whether intra or interstate, includes the rendering of a written or otherwise documented medical opinion concerning diagnosis or treatment of a patient within this state by a physician as a result of transmission of individual patient data by electronic or other means. This event is deemed to occur within this state.

Full licensure by this state shall be obtained by all physicians seeking to perform these services. The only exception will be the rendering of emergency advice or opinion or when the physician accepts or expects no compensation. In any given occurrence

the state of an emergency will be subject to the Board's collective judgment.

The Board acknowledges that there will need to be standards set which will establish quality of equipment and performance and accepted procedures. It will seek such standards from specialty boards and groups. Such standards currently have been advanced by the American Society of Radiologists, the American Telemedicine Association, the American College of Pathology and the American College of Dermatology. The Board urges other specialties to formulate and publish similar standards.

The Board holds that there must be a local physician or licensed health provider to receive, interpret and apply the diagnosis made by the non resident physician and that the treatment of the patient remain in the hands of the attending physician. This does not relieve the consultant of his responsibility to maintain proper standards of practice and insure accurate transmission of information.

There are still areas of concern involving telemedicine. One is the maintenance of patient confidentiality and the protection of patient records. Another involves the field of coding and charging for services. The Board feels both patients and third parties must be able to ascertain who is performing what services.

Further study will be made as to whether changes need to be made in the Medical Practice Act which would affect licensure or discipline on those practitioners who seek to practice only across state lines.

Section XVI: Law/Policy Statement on Telemedicine for Mental Health

(a) **Applicability and Scope.** The purpose of this Policy is to implement a Telemedicine policy that improves access to mental health care services in Oklahoma by enabling the provision of mental health care statewide and to increase access to mental health care services in order to meet the needs of the patient, while complying with all applicable federal and state statutes and regulations.

(b) **Definitions.** The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise.

(1) **“Distant site”** means the site where the physician providing the mental health service is located at the time the service is provided via audio/video telecommunications.

(2) **“Physician”** means an MD or DO with an unrestricted license that provides mental health services at the distant site.

(3) **“Health Care Professional”** means an Oklahoma licensed or certified health care professional other than an MD or DO.

(4) **“Presenter”** means a health care professional that is at the originating site with the patient and at the start of the telemedicine visit, presents the patient to the physician at the distant site.

(5) **“Originating site”** means the location of the patient receiving mental health care services at the time the service is being performed by a physician via audio/video telecommunications.

(6) **“Tele-health”** means the use of telecommunication technologies for clinical care (telemedicine), patient teaching and home health, physician and health care professional education (distance learning), administrative and program planning, and other diverse aspects of a health care delivery system.

(7) **“Telemedicine”** means the practice of health care delivery, diagnosis, consultation and treatment and the transfer of medical data through interactive audio, video and data communications that occur in the real-time or near real-time and in the physical presence of the patient. For purposes of the delivery of mental health care via telemedicine, the use of telemedicine shall be considered a face-to-face, in-person encounter between the physician and the patient, including the initial visit.

(8) **“Store and forward”** means the asynchronous transmission of medical information to be reviewed at a later time by a physician at the distant site. A patient’s medical information may include, but is not limited to, video clips, still images, x-rays, MRIs, EKGs and EEGs, laboratory results, audio clips, and text. The **physician** at the distant site reviews the case without the patient being present.

(9) **“Video conferencing”** means conferences and/or consultations between the patient, the presenter and the physician are held live over distances via a range of telecom services.

(c) **Telemedicine technology and requirements.** Telemedicine technology is limited to consultations, psychotherapy, psychiatric diagnostic interview examinations and testing, discharge planning and pharmacologic management. An interactive telecommunications system is required as a condition of the use of telemedicine.

(d) **The following shall not be considered telemedicine:**

- (1) Telephone conversation (including text messaging)
- (2) Electronic mail message

(3) Facsimile (fax)

(4) Store and forward

(e) **Telemedicine network and duties.**

(1) Interactive audio and video telecommunications must be used, permitting real-time communication between the distant site physician and the patient receiving mental health care services.

(2) All physicians and health care professionals must be licensed or certified in Oklahoma.

(3) The telemedicine equipment and transmission speed must be technically sufficient to support the service provided. If a peripheral diagnostic scope is required to assess the patient, it must provide adequate resolution and audio quality for decision making substantially equivalent to a face-to-face encounter. Staff involved in the telemedicine visit need to be trained in the use of the telemedicine equipment and competent in its operation.

(4) A licensed or certified health care professional at the originating site is required to present the patient to the physician at the distant site.

(5) The physician who has the ultimate responsibility for the care of the patient must obtain written consent from the patient, in accordance with state law, that states they agree to participate in telemedicine. The consent form must include a description of the risks, benefits and consequences of telemedicine and be included in the patient's medical record.

(6) The patient retains the right to withdraw at any time.

(7) All existing confidentiality protections apply.

(8) The patient has access to all transmitted medical information, with the exception of live interaction video as there is often no stored data in such encounters.

(9) There will be no dissemination of any patient images or information to other entities without written consent from the patient unless otherwise permitted or required by state or federal law.

(10) Physicians providing mental health care services via telemedicine shall be held to the same standards of care as required in the medical community. A significant component of this standard of care includes timely medical evaluations for physical illness, or referrals for such medical evaluations, based on the professional judgment of the physician providing telemedicine services.

(f) **Telemedicine Network Standards.** An appropriate telemedicine network shall meet all technical and confidentiality standards as required by state and federal law in order to ensure the highest quality of care.

Adopted by the Oklahoma Medical Board 9/18/2008

Section XVII: Guidelines for Office-Based Surgery and Other Invasive Procedures

These Guidelines are intended to assist Oklahoma medical doctors who are considering or currently practice ambulatory surgery or other invasive procedures which require anesthesia analgesia or sedation in an office setting. These recommendations focus on quality care and patient safety in the office. These are minimal guidelines and may be exceeded at any time based on the judgment of the involved physicians. Minor procedures in which un-supplemented local anesthesia is used in quantities equal to or less than the manufacturer's recommended dose adjusted for weight, are excluded from these guidelines. Nevertheless, it is expected that any practice performing office-based surgery regardless of anesthesia will have the necessary equipment and personnel to be able to handle emergencies resulting from the procedure and/or anesthesia.

The OSMBLS wants physicians to be aware that compared with acute care hospitals and licensed ambulatory surgical facilities, office operatories currently have little or no regulation, oversight or control by federal, state or local laws. Therefore, physicians must satisfactorily investigate areas taken for granted in the hospital or ambulatory surgical facility such as governance, organization, construction and equipment, as well as policies and procedures, including fire, safety, drugs, emergencies, staffing, training and unanticipated patient transfers.

The following issues should be addressed in an office setting to provide a high standard of patient safety and to reduce risk and liability.

1. Quality of Care

A. All health care practitioners and nurses should hold a valid license or certificate to perform their assigned duties.

B. All personnel who provide clinical care in the office-based surgical setting should be qualified to perform services commensurate with appropriate levels of education, training and experience.

C. Policies and procedures should be written for the orderly conduct of the facility and reviewed on an annual basis.

D. The facility should be under the supervision and control of a qualified physician.

E. All surgical personnel must wear suitable operative attire.

2. Facility and Safety

A. Facilities should comply with all applicable federal, state and local laws, codes and regulations pertaining to fire prevention, building construction and occupancy, accommodations for the disabled, occupational safety and health, and disposal of medical waste and hazardous waste.

B. Policies and procedures should comply with laws and regulations pertaining to controlled drug supply, storage and administration.

C. All premises must be kept neat and clean. Sterilization of operating materials must be adequate.

3. Clinical Care

Patient and Procedure Selection

A. Procedures to be undertaken should be within the scope of practice of the health care practitioners and the capabilities of the facility.

B. The procedure should be of a duration and degree of complexity that will permit the patient to recover and be discharged from the facility.

C. Patients who by reason of pre-existing medical or other conditions may be at undue risk for complications should be referred to an appropriate facility for performance of the procedure and the administration of anesthesia.

4. Preoperative Care

A. The anesthesia provider should adhere to the listed Anesthesia:Desiderata.

B. The anesthesia provider should be physically present during the intraoperative period and be available until the patient has been discharged from anesthesia care.

C. Discharge of a patient should be documented in the medical record and effected by a licensed independent practitioner.

D. Personnel with training in advanced resuscitative techniques (e.g., ACLS, PALS) should be immediately available until all patients are discharged home.

5. Monitoring and Equipment

A. At a minimum, all facilities should have a reliable source of oxygen, suction, resuscitation equipment and emergency drugs.

B. There should be sufficient space to accommodate all necessary equipment and personnel and to allow for expeditious access to the patient, anesthesia machine (when present) and all monitoring equipment.

C. All equipment should be maintained, tested and inspected according to the manufacturer's specifications.

D. Back-up battery power sufficient to ensure patient protection in the event of an emergency should be available.

E. In any location in which anesthesia is administered, there should be appropriate anesthesia apparatus and equipment which allow monitoring consistent with the Anesthesia: Desiderata and documentation of regular preventive maintenance as recommended by the manufacturer.

F. In an office where anesthesia services are to be provided to infants and children, the required equipment, medication and resuscitative capabilities should be appropriately sized for a pediatric population.

6. Emergencies and Transfers

A. All facility personnel should be appropriately trained in and regularly review the facility's written emergency protocols.

B. There should be written protocols for cardiopulmonary emergencies and other internal and external disasters such as fire.

C. The facility should have medications, equipment and written protocols available to treat malignant hyperthermia when triggering agents are used.

D. The facility should have a written protocol in place for the safe and timely transfer of patients to a prespecified alternate care facility when extended or emergency services are needed to protect the health or well-being of the patient. Pre-existing arrangements for definite care of the patient shall be established.

Oklahoma State Board Of Medical Licensure and Supervision Desiderata: Anesthesia

In order to promote optimum patient care in the practice of anesthesia, the Oklahoma State Board of Medical Licensure and Supervision recommends these desiderata:

1. An orderly preoperative anesthetic risk evaluation is to be done by the responsible physician and recorded on the chart in all elective cases, and in urgent emergency cases, the anesthetic evaluations will be recorded as soon as feasible.

2. Every patient receiving general anesthesia, spinal anesthesia, or managed intravenous anesthesia (i.e., local standby, monitored anesthesia or conscious sedation), shall have arterial blood pressure and heart rate measured and recorded at least every five minutes where not clinically impractical, in which case the responsible physician may waive this requirement stating the clinical circumstances and reasons in writing in the patient's chart.

3. Every patient shall have the electrocardiogram continuously displayed from the induction and during maintenance of general anesthesia. In patients receiving managed intravenous anesthesia, electrocardiographic monitoring should be used in patients with significant cardiovascular disease as well as during procedures where dysrhythmias are anticipated.

4. During all anesthetics, patient oxygenation will be continuously monitored with a pulse oximeter, and whenever an endotracheal tube or Laryngeal Mask Airway (LMA) is inserted, correct positioning in the trachea and function will be monitored by end-tidal CO₂ analysis (capnography) throughout the time of placement.

A. Additional monitoring for ventilation will include palpation or observation of the reservoir breathing bag, and auscultation of breath sounds.

B. Additional monitoring for circulation will include at least one of the following: Palpation of the pulse, auscultation of heart sounds, monitoring of a tracing of intra-arterial pressure, pulse plethysmography, or ultrasound peripheral pulse monitoring.

5. When ventilation is controlled by an automatic mechanical ventilator, there shall be in continuous use a device that is capable of detecting disconnection of any component of the breathing system. The device must give an audible signal when its alarm threshold is exceeded.

6. During every administration of general anesthesia using an anesthesia machine, the concentration of oxygen in the patient's breathing system will be measured by a functioning oxygen analyzer with low concentration audible limit alarm in use.

7. During every administration of general anesthesia, there shall be readily available a means to measure the patient's temperature.

8. Availability of qualified trained personnel dedicated solely to patient monitoring.

These desiderata apply for any administration of anesthesia, including general, spinal, and managed intravenous anesthetics (i.e., local standby, monitored anesthesia or conscious sedation), administered in designated anesthetizing locations and any location where conscious sedation is performed.

"Conscious sedation" means a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command, produced by a pharmacologic or non-pharmacologic method, or a combination thereof.

In emergency circumstances in any situation, immediate life support measures can be started with attention returning to these monitoring criteria as soon as possible and practical.

Adopted: 07/27/00

Section XVIII: Internet Prescribing

The Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (Title 59 O.S. 480 –518) also known as the “Medical Practice Act” defines the practice of medicine in part as “A physician that for a fee or any form of compensation diagnoses and or treats disease, injury or deformity of persons in this state by any allopathic legend drugs, surgery, manual, or mechanical treatment” (Section 492 A). Physicians rendering care to patients in Oklahoma must be licensed in Oklahoma.

Further, the Medical Board was established to protect the health, safety, and well being of the citizens of Oklahoma by investigating complaints and disciplining physicians (MD) for unprofessional conduct as set out in the Medical Practice Act and corresponding Administrative Rules. Unprofessional conduct includes “prescribing or administering a drug or treatment without sufficient examination and the establishment of a valid physician/ patient relationship” (§509-13).

The members of the Oklahoma Medical Board have interpreted that a “sufficient examination” and “establishment of a valid physician / patient relationship” can NOT take place without an initial face to face encounter with the patient. In other words, it requires at a minimum:

1. Verifying that the person requesting the medication is who they claim to be;
2. Establishing a diagnosis through the use of accepted medical practices such as a patient history, mental status exam, physical examination and appropriate diagnostic and laboratory testing by the prescribing physician;
3. Discussing with the patient, the diagnosis and the evidence for it, the risks and benefits of various treatment options; and
4. Insuring availability of the physician or coverage for the patient for appropriate follow-up care. Appropriate follow-up care includes a face to face encounter at least once a year and as often as it is necessary to insure safe continuation of medication.

Complete management of a patient by Internet, e-mail, or other forms of electronic communications is inappropriate.

The Oklahoma Medical Practice Act does provide for a physician to physician consultation (in-state or out-of-state) on an occasional basis that would not have to meet the aforementioned four (4) requirements. (Section 492-D-8)

Section XIX: Use of Controlled Substances for the Treatment of Pain

The Oklahoma State Board of Medical Licensure and Supervision (Board) recognizes that principles of quality medical practice dictate that the people of the State of Oklahoma have access to appropriate and effective pain relief. The appropriate application of up-to-date knowledge and treatment modalities can serve to improve the quality of life for those patients who suffer from pain as well as to reduce the morbidity and costs associated with untreated or inappropriately treated pain. For the purposes of this policy, the inappropriate treatment of pain includes nontreatment, undertreatment, overtreatment and the continued use of ineffective treatments.

The diagnosis and treatment of pain is integral to the practice of medicine. The Board encourages physicians to view pain management as a part of quality medical practice for all patients with pain, acute or chronic, and it is especially urgent for patients who experience pain as a result of terminal illness. All physicians should become knowledgeable about assessing patients' pain and effective methods of pain treatment, as well as statutory requirements for prescribing controlled substances. Accordingly, this policy has been developed to clarify the Board's position on pain control, particularly as related to the use of controlled substances, to alleviate physician uncertainty and to encourage better pain management.

Inappropriate pain treatment may result from physicians' lack of knowledge about pain management. Fears of investigation or sanction by federal, state and local agencies may also result in inappropriate treatment of pain. Appropriate pain management is the treating physician's responsibility. As such, the Board will consider the inappropriate treatment of pain to be a departure from standards of practice and will investigate such allegations, recognizing that some types of pain cannot be completely relieved, and taking into account whether the treatment is appropriate for the diagnosis.

The Board recognizes controlled substances, including opioid analgesics, may be essential in the treatment of acute pain due to trauma or surgery and chronic pain, whether due to cancer or non-cancer origins. The Board will refer to current clinical practice guidelines and expert review in approaching cases involving management of pain. The medical management of pain should consider current clinical knowledge and scientific research and the use of pharmacologic and non-pharmacologic modalities according to the judgment of the physician. Pain should be assessed and treated promptly and the quantity and frequency of doses should be adjusted according to the intensity, duration of the pain and treatment outcomes. Physicians should recognize that tolerance and physical dependence are normal consequences of sustained use of opioid analgesics and are not the same as addiction.

The Board is obligated under the laws of the State of Oklahoma to protect the public health and safety. The Board recognizes that the use of opioid analgesics for other than legitimate medical purposes pose a threat to the individual and society and that the inappropriate prescribing of controlled substances, including opioid analgesics, may lead to drug diversion and abuse by individuals who seek them for other than legitimate medical use. Accordingly, the Board expects that physicians incorporate safeguards into their practices to minimize the potential for the abuse and diversion of controlled substances.

Physicians should not fear disciplinary action from the Board for ordering, prescribing, dispensing or administering controlled substances, including opioid analgesics, for a legitimate medical purpose and in the course of professional practice. The Board will consider prescribing, ordering, dispensing or administering controlled substances

for pain to be for a legitimate medical purpose if based on sound clinical judgment. All such prescribing must be based on clear documentation of unrelieved pain. To be within the usual course of professional practice, a physician-patient relationship must exist and the prescribing should be based on a diagnosis and documentation of unrelieved pain. Compliance with applicable state and/or federal law is required.

The Board will judge the validity of the physician's treatment of the patient based on available documentation, rather than solely on the quantity and duration of medication administration. The goal is to control the patient's pain while effectively addressing other aspects of the patient's functioning, including physical, psychological, social and work-related factors.

Allegations of inappropriate pain management will be evaluated on an individual basis. The Board will not take disciplinary action against a physician for deviating from this policy when contemporaneous medical records document reasonable cause for deviation. The physician's conduct will be evaluated to a great extent by the outcome of pain treatment, recognizing that some types of pain cannot be completely relieved, and by taking into account whether the drug used is appropriate for the diagnosis, as well as improvement in patient functioning and/or quality of life.

EFFECTIVE: *March 10, 2005*

Section XX: Taxation of Costs for Certain Disciplinary Actions

Pursuant to 59 O.S. § 509.1(A), it is and will be the policy of the Board that staff advise in writing all physicians coming before the Board for a disciplinary hearing that should the hearing result in surrender in lieu of prosecutions, revocation, suspension, probation or reprimand that it shall be an included term of adjudication that the defendant be taxed payment of costs expended by the Board for any legal fees and costs and probation and monitoring fees, including but not limited to staff time, salary and travel expense, witness fees and attorney fees.

It further is and shall be the policy of the Board that the above-referenced taxation of costs shall be automatic in every qualifying adjudication by the Board unless the Board specifically retracts the taxation against the physician due to the unique circumstances of the case. In other words, silence shall be deemed taxation against the physician as herein referenced.

It is and further shall be the policy of the Board that no license that has been surrendered in lieu of prosecution, revoked, or suspended shall be reinstated and no probation lifted unless the defendant has reimbursed the Board for taxed costs or worked out a repayment plan satisfactory to the Board.

It further is and shall be the policy of the Board that if a defendant is aggrieved by the amount or type of costs taxed following a disciplinary hearing, he may apply to the Board for relief within ten (10) days of receiving his notice of itemized taxed costs, which shall be served by personal delivery or certified mail.

Section XXI: Access to Medical Records - Copies - Waiver of Privilege - Closing the Physician's Office

From Title 76 Section 19

A. 1. Any person who is or has been a patient of a doctor, hospital, or other medical institution shall be entitled, upon request, to obtain access to the information contained in the patient's medical records, including any x-ray or other photograph or image or pathology slide. Disclosure regarding a deceased patient shall require either a court order or a written release of an executor, administrator or personal representative appointed by the court, or if there is no such appointment, by the spouse of the patient or, if none, by any responsible member of the family of the patient. As used in this paragraph, "responsible family member" shall mean the parent, adult child, adult sibling or other adult relative who was actively involved in providing care to or monitoring the care of the patient as verified by the doctor, hospital or other medical institution on responsible for the care and treatment of such person.

2. Any person who is or has been a patient of a doctor, hospital, or other medical institution shall be furnished copies of all records, including any x-ray, other photograph or image or pathology slide, pertaining to that person's case upon request and upon the tender of the expense of the copy or copies. The cost of each copy to such person or to the legal representative, spouse or responsible family member of such person, not including any x-ray or other photograph or image or pathology slide, shall not exceed One Dollar (\$1.00) for the first page and fifty cents (\$0.50) for each subsequent page. The physician, hospital or other medical professionals and institutions may produce the records in digital form at a cost not to exceed twelve cents (\$0.12) per digital page. The cost of each x-ray or other photograph or image, or pathology slide to such person or to the legal representative of such person shall not exceed Five Dollars (\$5.00) or the actual cost of reproduction, whichever is less. The physician, hospital, or other medical professionals and institutions may charge a patient for the actual cost of mailing the patient's requested medical records, but may not charge a fee for searching, retrieving, reviewing, and preparing medical records of the person. No mailing fee shall be charged for copies provided by facsimile.

3. The provisions of paragraphs 1 and 2 of this subsection shall not apply to psychological or psychiatric records. In the case of psychological or psychiatric records, the patient shall not be entitled to copies unless access to the records is consented to by the treating physician or practitioner or is ordered by a court of competent jurisdiction upon a finding that it is in the best interests of the patient, but the patient may be provided access to information contained in the records, as provided in subsection B of Section 1-109 of Title 43A of the Oklahoma Statutes. The patient or, if the patient is a minor child or a guardian has been appointed for the patient, the guardian of the patient may authorize the release of the psychiatric or psychological records of the patient to the patient's attorney, a third party payor, or a governmental entity. The execution of an authorization shall not be construed to authorize the patient personal access to the records or information.

B. 1. In cases involving a claim for personal injury or death against any practitioner of the healing arts or a licensed hospital, or a nursing facility or nursing home licensed pursuant to Section 1-1903 of Title 63 of the Oklahoma Statutes arising out of patient care, where any person has placed the physical or mental condition of that person in issue by the commencement of any action, proceeding, or suit for damages, or where

any person has placed in issue the physical or mental condition of any other person or deceased person by or through whom the person rightfully claims, that person shall be deemed to waive any privilege granted by law concerning any communication made to a physician or health care provider with reference to any physical or mental condition or any knowledge obtained by the physician or health care provider by personal examination of the patient; provided that, before any communication, medical or hospital record, or testimony is admitted in evidence in any proceeding, it must be material and relevant to an issue therein, according to existing rules of evidence.

2. Any person who obtains any document pursuant to the provisions of this section shall provide copies of the document to any opposing party in the proceeding upon payment of the expense of copying the document pursuant to the provisions of this section.

Title 76 O.S., Section 20. Refusing to furnish records – Penalty

Any person refusing to furnish records or information required in Section 3 of this act shall be guilty of a misdemeanor.

Closing the Physician's Office*

One major problem that always arises whenever it becomes necessary to close a physician's office is what to do with patient records. Since these are very important and confidential documents, they must be carefully preserved in some manner. The medical record of an individual includes any and all medical and clinical data on the individual, including EKG tapes, x-rays, laboratory reports, etc. In some offices it may be necessary to gather up a patient's entire record from several different filing locations.

If a physician was in partnership, it is common practice to leave the records in the possession of the partner. However, all of the physician's patients should be advised that they have the right to have their medical records sent to a physician of their choice. This notification may be accomplished through a sign in the reception area, a note on the billing statement, or a small advertisement in a newspaper of general distribution in the community.

Whenever a physician is leaving or has left practice and the actual office is being closed, several different methods of patient notification may be used. A letter placed in the patient's monthly billing notice is one method. Since most patients do not receive a monthly notice, it is common practice to place a dignified advertisement in two or three editions of the local newspaper notifying the general public, as well as past and present patients, of the office closing and that medical records will be sent to another physician of the patient's choice.

Of course, the method that will assure maximum notice is a direct letter to the last known address of each patient in the file. Obviously, this could become prohibitively expensive and is really not necessary. The important thing is to preserve the records so that they will be available when needed.

There is no law setting the specific amount of time that medical records should be preserved. The length of time to keep records may require a subjective analysis of the physician's type of practice. Factors to consider include whether duplicate records exist elsewhere, the potential for litigation against the physician, and the type of practice, i.e., whether it is a high risk type of practice. However, legal authorities have recommended that in Oklahoma, medical records should be kept for a minimum of ten years from the last time the patient was seen. Records of patients who were minors when treated should be preserved two to five years after the patient reaches 18 years of age.

After the maximum number of records have been forwarded to other physicians, the storage location of the remainder of the records should be made known to the following organizations: the Oklahoma State Medical Association, to be included in the physician's membership record; the county medical society, if it maintains a permanent business office; and to other physicians, hospital administrators, hospital medical record departments, clinic and office managers, and pharmacies in the area.

The destruction of any record, medical or financial, should only be done with the advice of competent legal counsel. Advice regarding the destruction of medical records should be sought from the state medical association and the State Board of Medical Licensure.

**Excerpted from the Board's Brochure - Closing the Physician's Office by Ed Kelsey, Attorney at Law*

Section XXII: Advanced Directives

Title 63, Public Health and Safety, Chapter 60 of Oklahoma Statutes is the **Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act**. **Section 3101.9, Unwilling to Comply with Act**, states:

An attending physician or other health care provider who is unwilling to comply with the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act shall as promptly as practicable take all reasonable steps to arrange care of the declarant by another physician or health care provider when the declarant becomes a qualified patient. Once a patient has established a physician-patient relationship with a physician or a provider-patient relationship with another health care provider, if the physician or other health care provider refuses to comply with a medical treatment decision made by or on behalf of the patient pursuant to the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act, or with a medical treatment decision made by such a patient who has decision-making capacity, and if the refusal would in reasonable medical judgment be likely to result in the death of the patient, then the physician or other health care provider must comply with the medical treatment decision pending the completion of the transfer of the patient to a physician or health care provider willing to comply with the decision. Nothing in this section shall require the provision of treatment if the physician or other health care provider is physically or legally unable to provide or is physically or legally unable to provide without thereby denying the same treatment to another patient.

Nothing in this section may be construed to alter any legal obligation or lack of legal obligation of a physician or other health care provider to provide medical treatment, nutrition, or hydration to a patient who refuses or is unable to pay for them.

Section 3101.10, **Liability for Unprofessional Conduct for Carrying Out Advance Directive**, states in part:

A. In the absence of knowledge of the revocation of an advance directive, a person is not subject to civil or criminal liability or discipline for unprofessional conduct for carrying out the advance directive pursuant to the requirements of the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act.

Section 3101.11, **Acts constituting unprofessional conduct-Acts constituting felonies-Sanctions**

A. A physician or other health care provider who willfully fails to arrange the care of a patient in accordance with Section 9 of this act¹ shall be guilty of unprofessional conduct.

¹Title 63, § 3101.9

Section XXIII: Oklahoma Statutes

This section will reproduce sections of different statutes that may have an effect on your practice as a physician and surgeon in the State of Oklahoma.

Title 59 O.S., Section 354. Prescription as Property Right of Patient - Failure to Furnish Reference Copies

- A. A prescription is the property of the patient for whom it is prescribed.
- B. No pharmacist or assistant pharmacist shall refuse, upon request by that customer in person or through an authorized pharmacist or assistant pharmacist, to supply a reference copy in writing or by telephone.
- C. No legally-competent practitioner of the healing arts shall refuse to honor the request of his patient to have his prescription transferred to the registered pharmacist or pharmacy of the patient's choice.

Added by Laws 1974, SB 603, c. 79, § 1, emerg. eff. April 19, 1974; Amended by Laws 1993, HB 1213, c. 199, § 21, emerg. eff. May 24, 1993; Amended by Laws 2009, SB 1181, c. 321, § 23, eff. November 1, 2009

Title 59 O.S., Section 355.1 Dispensing dangerous drugs – Procedure – Registration – Exemptions

A. Except as provided for in Section 353.1 et seq. of this title [*Pharmacy Act*], only a licensed practitioner may dispense dangerous drugs to such practitioner's patients, and only for the expressed purpose of serving the best interests and promoting the welfare of such patients. The dangerous drugs shall be dispensed in an appropriate container to which a label has been affixed, such label to include the name and office address of the licensed practitioner, date dispensed, name of patient, directions for administration, prescription number, the trade or generic name and the quantity and strength, not meaning ingredients, of the drug therein contained; provided, this requirement shall not apply to compounded medicines. The licensed practitioner shall keep a suitable book, file or record in which shall be preserved for a period of not less than five (5) years a record of every dangerous drug compounded or dispensed by the licensed practitioner.

B. A licensed practitioner desiring to dispense dangerous drugs pursuant to this section shall register annually with the appropriate licensing board as a dispenser, through a regulatory procedure adopted and prescribed by such licensing board.

C. A licensed practitioner who dispenses professional samples to patients shall be exempt from the requirement of subsection B of this section if:

1. The licensed practitioner furnishes the professional samples to the patient in the package provided by the manufacturer;
2. No charge is made to the patient; and
3. An appropriate record is entered in the patient's chart.

D. This section shall not apply to the services provided through the State Department of Health, city/county health departments, or the Department of Mental Health and Substance Abuse Services.

E. This section shall not apply to organizations and services incorporated as state or federal tax-exempt charitable nonprofit entities and/or organizations and services receiving all or part of their operating funds from a local, state or federal governmental entity; provided, such organizations and services shall comply with the labeling and recordkeeping requirements set out in subsection A of this section.

Added by Laws 1987, c. 20, § 5, eff. Nov. 1, 1987. Amended by Laws 1987, c. 168, § 5, eff. Nov. 1, 1987; Laws 1990, c. 51, § 122, emerg. eff. April 9, 1990; Amended by Laws 1997, c. 250, § 5, eff. November 01, 1997

Title 59 O.S., Section 725.3. Violations of Provisions

- A. 1. Any licensed health care provider found by the appropriate licensing board or state agency to be in violation of the provisions of subsection E of Section 725.2 of this title [*Healing Arts*] shall be punished by an administrative penalty of not less than Twenty-five Dollars (\$25.00) nor more than One Thousand Dollars (\$1,000.00) to be administered and collected by the appropriate licensing board or state agency.
2. Any person who is not a licensed health care provider and found by the appropriate licensing board or state agency to be in violation of the provisions of subsection E of Section 725.2 of this title, shall be punished by an administrative penalty of not less than Twenty-five Dollars (\$25.00) nor more than One Thousand Dollars (\$1,000.00) to be administered and collected by the appropriate licensing board or state agency. Each day this act is violated shall constitute a separate offense and shall be punishable as such.
- B. 1. Any licensed health care provider found by the appropriate licensing board or state agency to be in violation of the provisions of this act, other than subsection E of Section 725.2 of this title, shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00) to be administered and collected by the appropriate licensing board or state agency.
2. Any person who is not a licensed health care provider and found by the appropriate licensing board or state agency to be in violation of the provisions of this act, other than subsection E of Section 725.2 of this title, shall be punished by an administrative penalty of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00) to be administered and collected by the appropriate licensing board or state agency.
3. Each day this act is violated shall constitute a separate offense and shall be punishable as such.
- C. A case shall be referred to the Attorney General for investigation and prosecution if a licensing board or state agency makes a finding of gross or repeated violations of this act by a licensed health care provider or an unlicensed health care provider.

Added by Laws 1947, HB 159, c. 16, § 3, emerg. eff. March 13, 1947; Amended by Laws 2009, HB 1569, c. 148, § 3, eff. November 1, 2009

Title 59 O.S., Section 731.3. Unlicensed person not to hold himself out as qualified

Except as authorized by the provisions of Section 492 and 731.5 of this title and Section 5 of this act [*Healing Arts*], no person shall in any manner engage in, offer to engage in, or hold himself out as qualified to engage in the diagnosis and/or treatment of any human ill unless such person is the holder of a legal and unrevoked license or certificate issued under the laws of Oklahoma authorizing such person to practice the healing art covered by such license and is practicing there under in the manner and subject to the limitations provided by the laws of the State of Oklahoma for the issuance of such license or certificate for the practice there under.

Laws 1947, p. 358, § 3, emerg. eff. May 22, 1947; Laws 1984, c. 192, § 4, emerg. eff. May 14, 1984.

Title 76 O.S., Section 17. Medical malpractice – Reporting of the claim to licensing board

Whenever a claim of personal injury is made against any practitioner of the healing arts or a licensed hospital, a report shall be made to the appropriate licensing board

or agency by the liability insurer of such practitioner or hospital within sixty (60) days after receipt of information that a claim is being made. In the event that such claim is made against a party not insured, the report shall be made by the party. The report shall be in writing on a form containing the following information:

1. The name and address of the practitioner or hospital;
2. The name, age and address of the claimant;
3. A brief statement of the nature of the injury, illness or condition complained of and the act or omission complained of; and
4. Whether a suit is pending and, if so, the court, style and docket number of the action.

And whenever such claim or suit is concluded, the disposition shall be reported to the appropriate board or agency promptly.

This report shall be privileged except as hereinafter provided.

The licensing board or agency shall take any remedial, disciplinary or corrective action as it may deem warranted by the facts contained in the report.

Any person or liability insurer failing to furnish a report on a claim as required in this section shall be guilty of a misdemeanor.

Further, the board or agency shall annually furnish the President Pro Tempore of the Senate and the Speaker of the House of Representatives a full report of all such claims except that names and addresses of all parties shall be omitted. Such report shall include disposition of the claim as well as a report of all action taken by the board or agency and the reason therefor.

Added by Laws 1976, c. 44, § 1, emerg. eff. April 8, 1976. Amended by Laws 1979, c. 75, § 1, eff. Oct. 1, 1979.

Title 76 O.S., Section 18. Limitation of action

An action for damages for injury or death against any physician, health care provider or hospital licensed under the laws of this state, whether based in tort, breach of contract or otherwise, arising out of patient care, shall be brought within two (2) years of the date the plaintiff knew or should have known, through the exercise of reasonable diligence, of the existence of the death, injury or condition complained of; provided, however, the minority or incompetency when the cause of action arises will extend said period of limitation.

Added by Laws 1976, c. 44, § 2, emerg. eff. April 8, 1976; Amended by Laws 2002, SB 1571, c. 462, § 4, emerg. eff. July 1, 2002

Title 76 O.S., Section 20.1. Healing arts – Standard of care

The standard of care required of those engaging in the practice of the healing arts within the State of Oklahoma shall be measured by national standards.

Added by Laws 1983, c. 231, § 1.

Title 76 O.S., Section 25. Professional review body, staff and personnel – Limitation of liability

A professional review body, members and staff of such professional review body and persons who contract with such professional review body shall not be liable in any way in damages under any law of this state with respect to a professional review action taken in good faith by such professional review body.

Added by Laws 1987, c. 78, § 6, eff. Nov. 1, 1987.

Title 76 O.S., Section 26. Persons supplying information to professional review body – Liability

Any person who supplies information in good faith and with reasonable belief that such information is true to a professional review body shall not be liable in any way in damages with respect to giving such information to the professional review body.

Added by Laws 1987, c. 78, § 7, eff. Nov. 1, 1987.

Rules and regulations enacted by administrative agencies pursuant to powers delegated to them have the force and effect of law and are presumed to be reasonable and valid, with burden of establishing that rule is not reasonable or valid on the party complaining of the rule.

Section XXIV: Oklahoma Tax Commission and Medical Licensure

From the web site of the Oklahoma Tax Commission :

The Statute...

Effective July 1, 2000, a new law went into effect requiring professional license applicants to be reviewed by the Oklahoma Tax Commission for income tax compliance. This tax review is to be conducted before a state license can be renewed. The Oklahoma Tax Commission has established a section, the Professional Licensing Compliance Unit, to assist taxpayers with this new law. Agencies are to submit a list of individuals who are applying for license renewal or reinstatement to be verified for income tax compliance by the Professional Licensing Compliance Unit. Licensees who appear to be not in compliance will be contacted directly by the Oklahoma Tax Commission in an attempt to resolve any issues prior to notification of the licensing agency. If resolution is not achieved, notification will be made to the licensing agency. In this event, the individual's license will not be renewed or reinstated. <<http://www.tax.ok.gov/prolic.html>>¹

This provision is found at Title 68 O.S.:

§ 238.1. State licenses – Collection of income taxes – Notification – Definitions

A. It is the intent of the Legislature that the provisions of this section operate to provide for the collection of income taxes due to the State of Oklahoma by persons holding state licenses in a manner that will maximize flexibility for licensees to pay any such taxes due while minimizing disruption to operations of licensing entities. It is the further intent of the Legislature that the Oklahoma Tax Commission allow at least six (6) months notice to licensees pursuant to the provisions of subsection C of this section prior to notification of noncompliance to a licensing entity.

B. Each licensing entity shall, on a date that allows the Tax Commission to comply with the notice provisions of subsection A of this section, provide to the Tax Commission a list of all its licensees and such identifying information as may be required by the Tax Commission. Such list and information shall be used by the Tax Commission exclusively for the purpose of collection of income taxes due to the State of Oklahoma. The provisions of any laws making application information confidential shall not apply with respect to information supplied to the Tax Commission pursuant to the provisions of this section; provided such information shall be subject to the provisions of Section 205 of Title 68 of the Oklahoma Statutes.

C. The Tax Commission shall notify any licensee who is not in compliance with the income tax laws of this state. Such notification shall include:

1. A statement that the licensee's license will not be renewed until the taxpayer is deemed by the Tax Commission to be in compliance with the income tax laws of this state;

2. The reasons that the taxpayer is considered to be out of compliance with the income tax laws of this state, including a statement of the amount of any tax, penalties and interest due or a list of the tax years for which income tax returns have not been filed as required by law;

3. An explanation of the rights of the taxpayer and the procedures which must be followed by the taxpayer in order to come into compliance with the income tax laws of this state; and

4. Such other information as may be deemed necessary by the Tax Commission.

D. A licensee who has entered into and is abiding by a payment agreement, or who has requested relief as an innocent spouse which is pending or has been granted, shall be deemed to be in compliance with the state income tax laws for purposes of this section.

E. If the Tax Commission notifies a licensee who is not in compliance with the income tax laws of this state as required in this section and such licensee does not respond to such notification or fails to come into compliance with the income tax laws of this state after an assessment has been made final or after the Tax Commission determines that every reasonable effort has been made to assist the licensee to come into compliance with the income tax laws of this state, the Tax Commission, notwithstanding the provisions of Section 205 of this title, shall so notify the licensing entity, which shall not renew the licensee's license at such time as it is subject to renewal and shall notify the applicant of the reason for nonrenewal. If a licensee who has been previously reported by the Tax Commission to a licensing entity as being out of compliance comes into compliance, the Tax Commission shall immediately notify the licensing entity. A licensing entity shall not be held liable for any action with respect to a state license pursuant to the provisions of this section.

F. If the Oklahoma Bar Association receives notice that a licensed attorney is not in compliance with the income tax laws of this state as provided in this section, the Bar Association shall begin proceedings by which the attorney may be suspended pursuant to Rule Governing Disciplinary Proceedings. If suspended, the attorney may be reinstated pursuant to reinstatement procedures as provided in the Rules Governing Disciplinary Proceedings.

G. The Tax Commission shall promulgate rules for the implementation of the provisions of this section.

H. As used in this section:

1. **"State license"** means a license, certificate, registration, permit, approval or other similar document issued by a licensing entity granting to an individual or business a right or privilege to engage in a profession, occupation or business in this state. "State license" does not include an inactive license issued by a licensing entity which does not grant an individual the right to engage in a profession, occupation or business in this state; and

2. **"Licensing entity"** means a bureau, department, division, board, agency, commission or other entity of this state or of a municipality in this state that issues a state license.

Laws 2000, c. 314, § 6, eff. July 1, 2000; Laws 2001, c. 295, § 1, emerg. eff. May 31, 2001.

For more information on complying with Tax Commission laws for licensure renewal and reinstatement purposes, contact the Oklahoma Tax Commission at (405) 522-6800 or visit the OTC web site at www.tax.ok.gov/prolic.html

¹Oklahoma Tax Commission "Professional Licensing" 13 October 2005. OK.gov. 10 Jan. 2006 <<http://www.tax.ok.gov/prolic.html>>.

Section XXV: Immigration Act

The controversial House Bill 1804 Oklahoma Taxpayer Protection Act (OTPA), more commonly referred to as the Immigration Act, became effective on November 1, 2007. The opinion of the Oklahoma Attorney General's Office is that a state license awarded to any person must have a signed and sworn affidavit affirming his/her right to be in the United States.

The Board is required to receive an affidavit from each licensee for their file. U.S. Citizens will be required to provide the form one time. Legal Aliens will be required to provide the form each year at the time of their license renewal. The Oklahoma Medical Board will verify legal alien's status with the Department of Homeland Security.

For a complete copy of House Bill 1804 or for the Affidavit Verifying Lawful Presence in the United States form, go to the Board's web site at www.okmedicalboard.org.

**Oklahoma Allopathic Medical and Surgical
Licensure and Supervision Act**

**Title 59 Oklahoma Statutes
Sections 480 - 518**

Updated: 05/10/2010

OKLAHOMA ALLOPATHIC MEDICAL AND SURGICAL LICENSURE AND SUPERVISION ACT Title 59 O.S., Sections 480 - 518

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480. Short Title - Intent and Scope of Act

Sections 481 through 518 of Title 59 of the Oklahoma Statutes shall be known and may be cited as the “Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act”. It is the intent that this act shall apply only to allopathic and surgical practices and to exclude any other healing practices. Allopathy is a method of treatment practiced by recipients of the degree of Doctor of Medicine, but specifically excluding homeopathy. The terms medicine, physician and drug(s) used herein are limited to allopathic practice.

Added by Laws 1994, c. 323, § 1, eff. July 1, 1994.

481. Re-creation of State Board of Medical Licensure and Supervision

A State Board of Medical Licensure and Supervision hereinafter referred to as the “Board” is hereby recreated, to continue until July 1, 2013, in accordance with the provisions of the Oklahoma Sunset Law. The Board shall be composed of seven (7) allopathic physicians licensed to practice medicine in this state and represent the public and two (2) lay members. The physician members of the Board shall be graduates of legally chartered medical schools recognized by the Oklahoma State Regents for Higher Education or the Liaison Council on Medical Education. The physician members shall have actively practiced as licensed physicians continuously in this state for the three (3) years immediately preceding their appointment to the Board. All members of the Board shall be residents of this state and shall be appointed by the Governor as provided for in Section 482 of this title. All present members of the Board shall continue to serve for the remainder of their current terms.

Added by Laws 1923, c. 59, p. 102, § 1, emerg. eff. March 31, 1923; Amended by Laws 1925, c. 63, p. 95, § 1, emerg. eff. April 6, 1925; Laws 1943, p. 135, § 4, emerg. eff. March 24, 1943; Laws 1965, c. 264, § 1, emerg. eff. June 23, 1965; Laws 1983, c. 159, § 1, operative July 1, 1983; Laws 1987, c. 118, § 5, operative July 1, 1987; Laws 1988, c. 225, § 9; Laws 1993, c. 280, § 1; Laws 1994, c. 323, § 2, eff. July 1, 1994; Amended by Laws 1997, c. 33, § 1, eff. April 7, 1997; Amended by Laws 1998, c. 324, § 1, eff. May 28, 1998; Amended by Laws 2003, HB 1538, c. 10, § 1, eff. August 29, 2003; Amended by Laws 2009, HB 1014, c. 17, § 1.

481.1. State Board of Medical Examiners Means State Board of Medical Licensure and Supervision

Whenever in the Statutes reference is made to the State Board of Medical Examiners, it shall mean hereafter the State Board of Medical Licensure and Supervision.

Added by Laws 1987, c. 118, § 6, operative July 1, 1987.

482. Appointment of Board – Tenure – Vacancies

Physician members of the State Board of Medical Licensure and Supervision shall be appointed for terms of seven (7) years. The lay members of the Board shall serve terms coterminous with that of the Governor and until a qualified successor has been duly appointed and shall serve at the pleasure of the Governor. No member shall be appointed to serve more than two complete consecutive terms. Each physician member shall hold office until the expiration of the term for which appointed or until a qualified successor has been duly appointed. An appointment shall be made by the Governor within ninety (90) days after the expiration of the term of any member or the occurrence of a vacancy on the Board due to resignation, death or any cause resulting in an unexpired term. The appointment of allopathic physicians shall be made from a list of three names submitted to the Governor by the Oklahoma State Medical Association. The Association

may submit names of members or nonmembers of the Association. No member of the Board shall be a stockholder in or full-time salaried or full-time geographic member of the faculty or board of trustees of any medical school.

Added by Laws 1923, c. 59, p. 102, § 2, emerg. eff. March 31, 1923. Amended by Laws 1925, c. 63, p. 95, § 2, emerg. eff. April 6, 1925; Laws 1943, p. 135, § 5, emerg. eff. March 24, 1943; Laws 1965, c. 264, § 2, emerg. eff. June 23, 1965; Laws 1983, c. 159, § 2, operative July 1, 1983; Laws 1987, c. 118, § 7, operative July 1, 1987; Laws 1993, c. 280, § 2; Laws 1994, c. 323, § 3, eff. July 1, 1994; Amended by Laws 1998, c. 324, § 2, eff. May 28, 1998.

483. Repealed

Repealed by Laws 1980, c. 68, § 1, eff. April 10, 1980.

484. Oath

Each member of said Board shall, before entering upon the duties of office, take the constitutional oath of office, and shall, in addition, make oath that he or she is qualified under the terms of this act to hold such office.

Added by Laws 1923, c. 59, p. 103, § 4, emerg. eff. March 31, 1923. Amended by Laws 1994, c. 323, § 4, eff. July 1, 1994.

485. Organization - Officers

The State Board of Medical Licensure and Supervision shall elect a president and a vice-president each year. If either office becomes vacant during that year, an election to fill the vacancy shall be held at the next regularly scheduled meeting of the Board.

Added by Laws 1923, c. 59, p. 103, § 5, emerg. eff. March 31, 1923. Amended by Laws 1943, p. 136, § 7, emerg. eff. March 24, 1943; Laws 1965, c. 264, § 4, emerg. eff. June 23, 1965; Laws 1987, c. 118, § 8, operative July 1, 1987; Laws 1994, c. 323, § 5, eff. July 1, 1994; Laws 1995, c. 211, § 1, eff. Nov. 1, 1995; Amended by Laws 1998, c. 324, § 3, eff. May 28, 1998

486. Repealed

Repealed by Laws 1980, c. 159, § 40, eff. April 2, 1980.

487. Secretary - Duties

A. The State Board of Medical Licensure and Supervision may appoint the secretary 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 the Board. The Board may hire a licensed allopathic physician to serve as the secretary-medical advisor to the Board and its staff. This position shall be in the exempt unclassified service, as provided for in subsection B of Section 840-5.5 of Title 74 of the Oklahoma Statutes. The secretary shall not be a member of the Board and shall not vote on Board actions.

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

1. age;
2. ethnic origin;
3. sex;

4. place of practice and residence;
5. the time spent in premedical and medical study, together with the names of the schools attended, and the date of graduation therefrom, with the degrees granted;
6. the grades made in examination for license or grades filed in application therefor; and
7. a record of the final disposition of each application for licensure.

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

Added by Laws 1923, c. 59, p. 103, § 7, emerg. eff. March 31, 1923. Amended by Laws 1994, c. 323, § 6, eff. July 1, 1994; Laws 1995, c. 211, § 2, eff. Nov. 1, 1995; Amended by Laws 2009, SB 1178, c. 11, § 1, eff. November 1, 2009.

488. Meetings of Board

A. The Board may hold regular meetings at times to be fixed by the president and secretary of the Board in accordance with the provisions of the Oklahoma Open Meeting Act. In addition, the president and secretary may call such special and other meetings in accordance with the provisions of the Oklahoma Open Meeting Act. A majority of the members of the Board shall constitute a quorum for the transaction of business but a less number may adjourn from time to time until a quorum is present.

B. No meeting as provided for in subsection A of this section shall be required for the determination of the qualifications of an applicant for a certificate issued pursuant to the provisions of Section 495 of this title. Each member of the Board authorized to vote on licensure may review the qualifications of the applicant during times other than when a regular or special meeting is held, to determine the sufficiency of said qualifications. Each member shall notify the secretary of his findings, in writing. The provisions of this subsection shall not be construed to prohibit the Board from reviewing the qualifications of an applicant for licensure during any regular or special meeting of the Board.

Added by Laws 1923, c. 59, p. 103, § 8, emerg. eff. March 31, 1923. Amended by Laws 1925, c. 63, p. 95, § 3, emerg. eff. April 6, 1925; Laws 1935, p. 56, § 1, emerg. eff. May 13, 1935; Laws 1943, p. 136, § 8, emerg. eff. March 24, 1943; Laws 1984, c. 75, § 1, emerg. eff. April 3, 1984; Laws 1987, c. 118, § 9, operative July 1, 1987; Laws 1994, c. 323, § 7, eff. July 1, 1994.

489. Rules and Regulations

The Board shall from time to time adopt such rules as may be necessary to carry into effect the provisions of this act, and shall have authority to establish fees not otherwise provided for in this act; and from time to time, as the courses of instruction in medical colleges, under the contemplation of this act, are increased or changed, the Board is hereby directed in like manner to increase or change its educational requirements for license to practice medicine within the state.

Added by Laws 1923, c. 59, p. 104, § 9, emerg. eff. March 31, 1923. Amended by Laws 1987, c. 118, § 10, operative July 1, 1987; Laws 1994, c. 323, § 8, eff. July 1, 1994.

489.1. Repealed

Repealed by Laws 1987, c. 118, § 60, operative July 1, 1987.

490. Members – May Administer Oaths

Any member of the Board shall have the authority to administer oaths in all matters pertaining to the affairs of the Board and to take evidence and compel the attendance of witnesses on questions pertaining to the enforcement of this act. The trial examiner of the Board shall have the authority to compel the attendance of witnesses.

Added by Laws 1923, c. 59, p. 104, § 10, emerg. eff. March 31, 1923. Amended by Laws 1987, c. 118, § 11, operative July 1, 1987; Laws 1994, c. 323, § 9, eff. July 1, 1994.

491. License – Practice of Medicine and Surgery

1. Every person before practicing medicine and surgery or any of the branches or departments of medicine and surgery, within the meaning of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, the Oklahoma Osteopathic Medicine Act, or the Oklahoma Interventional Pain Management Act, within this state, must be in legal possession of the unrevoked license or certificate issued pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act.

2. Any person practicing in such manner within this state, who is not in the legal possession of a license or certificate, shall, upon conviction, be guilty of a felony, punishable by a fine in an amount not less than One Thousand Dollars (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00), or by imprisonment in the county jail for a term of not more than one (1) year or imprisonment in the custody of the Department of Corrections for a term of not more than four (4) years, or by both such fine and imprisonment.

3. Each day a person is in violation of any provision of this subsection shall constitute a separate criminal offense and, in addition, the district attorney may file a separate charge of medical battery for each person who is injured as a result of treatment or surgery performed in violation of this subsection.

4. Any person who practices medicine and surgery or any of the branches or departments thereof without first complying with the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, the Oklahoma Osteopathic Medicine Act, or the Oklahoma Interventional Pain Management Act shall, in addition to the other penalties provided therein, receive no compensation for such medical and surgical or branches or departments thereof services.

B. 1. If a license has been revoked or suspended pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act or the Oklahoma Osteopathic Medicine Act whether for disciplinary reasons or for failure to renew the license, the State Board of Medical Licensure and Supervision may, subject to rules promulgated by the Board, assess and collect an administrative fine not to exceed Five Thousand Dollars (\$5,000.00) for each day after revocation or suspension whether for disciplinary reasons or for failure to renew such license that the person practices medicine and surgery or any of the branches or departments thereof within this state.

2. The Board may impose administrative penalties against any person who violates any of the provisions of the Oklahoma Interventional Pain Management and Treatment Act or any rule promulgated pursuant thereto. The Board is authorized to initiate disciplinary and injunctive proceedings against any person who has violated any of the provisions of the Oklahoma Interventional Pain Management and Treatment Act or any rule of the Board promulgated pursuant thereto. The Board is authorized in the names of the state to apply for relief by injunction in the established manner provided in cases of civil procedure, without bond, to enforce the provisions of the Oklahoma Interventional Pain Management and Treatment Act, or to restrain any violation thereof. The members of the Board shall not be personally liable for proceeding under this section.

3. Fines assessed shall be in addition to any criminal penalty provided pursuant to subsection A of this section.

Added by Laws 1923, SB 143, c. 59, § 11, emerg. eff. March 31, 1923; Amended by Laws 1994, HB 2123, c. 323, § 10, eff. July 1, 1994; Amended by Laws 2001, SB 764, c. 115, § 1, emerg. eff. April 18, 2001; Amended by Laws 2004, SB 369, c. 523, § 3, emerg. eff. June 9, 2004; Amended by Laws 2008, HB 2732, c. 358, § 2, eff. November 1, 2008; Amended by Laws 2010, SB 479, c. 67, § 2, emerg. eff. April 9, 2010.

491.1. Repealed

Repealed by Laws 1996, c. 6, § 2, eff. Sept. 1, 1996.

492. Practice of Medicine and Surgery – Title - Hospital

A. Every person shall be regarded as practicing allopathic medicine within the meaning and provisions of this 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, surgery, manual, or mechanical treatment unless otherwise authorized by law.

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

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

1. Advertising, holding out to the public, or representing in any manner that one is

authorized to practice medicine and surgery in this state;

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

3.

a. Any offer or attempt, except as otherwise authorized by law, to prevent, diagnose, correct, or treat in any manner or by any means, methods, devices, or instrumentalities except for manual manipulation any disease, illness, pain, wound, fracture, infirmity, defect, or abnormal physical or mental condition of any person, including the management of pregnancy and parturition, except as otherwise authorized by law.

b. Except as provided in subsection D of this section, performance by a person within or outside of this state, through an ongoing regular arrangement, of diagnostic or treatment services, including but not limited to, stroke prevention and treatment, through electronic communications for any patient whose condition is being diagnosed or treated within this state. A person who performs any of the functions covered by this subparagraph submits himself or herself to

the jurisdiction of the courts of this state for the purposes of any cause of action resulting from the functions performed.

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

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

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

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

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

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

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

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

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

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

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

8. Any person who is licensed to practice medicine and surgery in another state or territory of the United States whose sole 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. 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.

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

Added by Laws 1923, SB 143, c. 59, p. 104, § 12, emerg. eff. March 31, 1923; Amended by Laws 1965, SB 255, c. 399, § 1, emerg. eff. July 5, 1965; Amended by Laws 1974, HB 1784, c. 305, § 2, emerg. eff. May 29, 1974; Amended by Laws 1987, HB 1478, c. 118, § 12, emerg. eff. July 1, 1987; Amended by Laws 1990, HB 1882, c. 91, § 1, emerg. eff. April 18, 1990; Amended by Laws 1993, HB 1323, c. 230, § 25, emerg. eff. July 1, 1993; Amended by Laws 1994, HB 2123, c. 323, § 12, emerg. eff. July 1, 1994; Amended by Laws 1996, SB 745, c. 147, § 1, eff. November 1, 1996; Amended by Laws 1998, SB 1364, c. 324, § 4, emerg. eff. May 28, 1998; Amended by Laws 1999, HB 1189, c. 23, § 1, eff. November 1, 1999; Amended by Laws 2000, HB 2090, c. 52, § 4, emerg. eff. April 14, 2000; Amended by Laws 2009, HB 1569, c. 148, § 4, eff. November 1, 2009; Amended by Laws 2009, HB 1897, c. 261, § 2, emerg. eff. July 1, 2009.

492.1. Creation of Application Forms – Requirements to be Licensed to Practice Medicine and Surgery

A. The Board shall create such application forms as are necessary for the licensure of applicants to practice medicine and surgery in this state.

B. No person shall be licensed to practice medicine and surgery in this state except upon a finding by the Board that such person has fully complied with all applicable licensure requirements of this act, is of good moral character, and has produced satisfactory evidence to the Board of the ability of the applicant to practice medicine and surgery with reasonable skill and safety.

C. Except as specifically may be waived by the Board, the Board shall not engage in any application process with any agent or representative of the applicant.

Added by Laws 1994, c. 323, § 13, eff. July 1, 1994.

493. Repealed

Repealed by Laws 1994, c. 323, § 38, eff. July 1, 1994.

493.1. Applicant's Documentation Attested to Board - Qualifications

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

1. The applicant's full name and all aliases or other names ever used, current address, social security number and date and place of birth;

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

3. Originals of all documents and credentials required by the Board, or notarized photocopies or other verification acceptable to the Board of such documents and credentials;
 4. A list of all jurisdictions, United States or foreign, in which the applicant is licensed or has applied for licensure to practice medicine and surgery or is authorized or has applied for authorization to practice medicine and surgery;
 5. A list of all jurisdictions, United States or foreign, in which the applicant has been denied licensure or authorization to practice medicine and surgery or has voluntarily surrendered a license or an authorization to practice medicine and surgery;
 6. A list of all sanctions, judgments, awards, settlements or convictions against the applicant in any jurisdiction, United States or foreign, that would constitute grounds for disciplinary action under this act or the Board's rules;
 7. A detailed educational history, including places, institutions, dates, and program descriptions, of all his or her education, including all college, preprofessional, professional and professional graduate education;
 8. A detailed chronological life history from age eighteen (18) years to the present, including places and dates of residence, employment, and military service (United States or foreign) and all professional degrees or licenses or certificate now or ever held; and
 9. Any other information or documentation specifically requested by the Board that is related to the applicant's ability to practice medicine and surgery.
- B. The applicant shall possess a valid degree of Doctor of Medicine from a medical college or school located in the United States, its territories or possessions, or Canada that was approved by the Board or by a private nonprofit accrediting body approved by the Board at the time the degree was conferred. The application shall be considered by the Board based upon the product and process of the medical education and training.
- C. The applicant shall have satisfactorily completed twelve (12) months of progressive postgraduate medical training approved by the Board or by a private nonprofit accrediting body approved by the Board in an institution in the United States, its territories or possessions, or in programs in Canada, England, Scotland or Ireland approved by the Board or by a private nonprofit accrediting body approved by the Board.
- D. The applicant shall submit a history from the Administration of the Medical School from which the applicant graduated of any suspension, probation, or disciplinary action taken against the applicant while a student at that institution.
- E. The applicant shall have passed medical licensing examination(s) satisfactory to the Board.
- F. The applicant shall have demonstrated a familiarity with all appropriate statutes and rules and regulations of this state and the federal government relating to the practice of medicine and surgery.
- G. The applicant shall be physically, mentally, professionally, and morally capable of practicing medicine and surgery in a manner reasonably acceptable to the Board and in accordance with federal law and shall be required to submit to a physical, mental, or professional competency examination or a drug dependency evaluation if deemed necessary by the Board.
- H. The applicant shall not have committed or been found guilty by a competent authority, United States or foreign, of any conduct that would constitute grounds for disciplinary action under this act or rules of the Board. The Board may modify this restriction for cause.
- I. Upon request by the Board, the applicant shall make a personal appearance before the Board or a representative thereof for interview, examination, or review of

credentials. At the discretion of the Board, the applicant shall be required to present his or her original medical education credentials for inspection during the personal appearance.

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

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

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

1. Use of false or fraudulent information by an applicant;
2. Suspension or revocation of a license in another state unless the license has been reinstated in that state;
3. Refusal of licensure in another state other than for examination failure; and
4. Multiple examination failures.

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

Added by Laws 1994, c. 323, § 14, eff. July 1, 1994; Amended by Laws 1998, c. 324, § 5, eff. May 28, 1998; Amended by Laws 2002, HB 2078, c. 213, § 1, emerg. eff. May 8, 2002.

493.2. Foreign applicants - Requirements

A. Foreign applicants shall meet all requirements for licensure as provided in Sections 492.1 and 493.1 of this title.

B.

1. A foreign applicant shall possess the degree of Doctor of Medicine or a Board-approved equivalent based on satisfactory completion of educational programs from a foreign medical school as evidenced by recognized national and international resources available to the Board.

2. In the event the foreign medical school utilized clerkships in the United States, its territories or possession, such clerkships shall have been performed in hospitals and schools that have programs accredited by the Accreditation Council for Graduate Medical Education (ACGME).

C. A foreign applicant shall have a command of the English language that is satisfactory to the State Board of Medical Licensure and Supervision, demonstrated by the passage of an oral English competency examination.

D. The Board may promulgate rules requiring all foreign applicants to satisfactorily complete at least twelve (12) months and up to twenty-four (24) months of Board-approved progressive graduate medical training as determined necessary by the Board for the protection of the public health, safety and welfare.

E. All credentials, diplomas and other required documentation in a foreign language submitted to the Board by such applicants shall be accompanied by notarized English translations.

F. Foreign applicants shall provide satisfactory evidence of having met the requirements for permanent residence or temporary nonimmigrant status as set forth by the United States Immigration and Naturalization Service.

G. Foreign applicants shall provide a certified copy of the Educational Commission for Foreign Medical Graduates (ECFMG) Certificate to the Board at such time and

in such manner as required by the Board. The Board may waive the requirement for an Educational Commission for Foreign Medical Graduates Certificate by rule for good cause shown.

Added by Laws 1994, c. 323, § 15, eff. July 1, 1994; Amended by Laws 2002, HB 2078, c. 213, § 2, emerg. eff. May 8, 2002; Amended by Laws 2004, SB 369, c. 523, § 4, emerg. eff. June 9, 2004; Amended by Laws 2009, HB 1897, c. 261, § 4, emerg. eff. July 1, 2009.

493.3. License by Endorsement - Temporary License

A. Endorsement of licensed applicants: The State Board of Medical Licensure and Supervision may issue a license by endorsement to an applicant who:

1. Has complied with all current medical licensure requirements except those for examination; and
2. Has passed a medical licensure examination given in English in another state, the District of Columbia, a territory or possession of the United States, or Canada, or has passed the National Boards Examination administered by the National Board of Medical Examiners, provided the Board determines that such examination was equivalent to the Board's examination used at the time of application.

B. Notwithstanding any other provision of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, the Board may require applicants for full and unrestricted medical licensure by endorsement, who have not been formally tested by another state or territory of the United States or any Canadian medical licensure jurisdiction, a Board-approved medical certification agency, or a Board-approved medical specialty board within a specific period of time before application to pass a written and/or oral medical examination approved by the Board.

C. The Board may authorize the secretary to issue a temporary medical license for the intervals between Board meetings. A temporary license shall be granted only when the secretary is satisfied as to the qualifications of the applicant to be licensed under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act but where such qualifications have not been verified to the Board. A license shall:

1. Be granted only to an applicant demonstrably qualified for a full and unrestricted medical license under the requirements set by the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act and the rules of the Board; and
2. Automatically terminate on the date of the next Board meeting at which the applicant may be considered for a full and unrestricted medical license.

D. The Board may establish rules authorizing the issuance of conditional, restricted, or otherwise circumscribed licenses, or issuance of licenses under terms of agreement, for all licenses under its legislative jurisdiction as are necessary for the public health, safety, and welfare.

E. The Board may issue a temporary license to any of the professions under the jurisdiction of the Board based on defined qualifications set by each advisory committee of the profession.

Added by Laws 1994, c. 323, § 16, eff. July 1, 1994. Amended by Laws 1995, c. 211, § 3, eff. Nov. 1, 1995; Amended by Laws 1998, c. 324, § 6, eff. May 28, 1998; Amended by Laws 2009, HB 1897, c. 261, emerg. eff. July 1, 2009.

493.4. Special License and Special Training License

A. No person who is granted a special license or a special training license shall practice outside the limitations of the license.

- B. To be eligible for special or special training licensure, the applicant shall have

completed all the requirements for full and unrestricted medical licensure except graduate education and/or licensing examination or other requirements relative to the basis for the special license or special training license.

C. By rule, the State Board of Medical Licensure and Supervision shall establish restrictions for special and special training licensure to assure that the holder will practice only under appropriate circumstances as set by the Board.

D. A special license or special training license shall be renewable annually upon the approval of the Board and upon the evaluation of performance in the special circumstances upon which the special training license was granted.

E. The issuance of a special license or a special training license shall not be construed to imply that a full and unrestricted medical license will be issued at a future date.

F. All other provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act shall apply to holders of special or special training licenses.

G. This section shall not limit the authority of any state agency or educational institution in this state which employs a special or special training licensed physician to impose additional practice limitations upon such physician.

Added by Laws 1994, HB 2123, c. 323, § 17, emerg. eff. July 1, 1994; Amended by Laws 2004, SB 369, c. 523, § 5, emerg. eff. June 9, 2004; Amended by Laws 2008, HB 2763, c. 149, § 2, emerg. eff. May 12, 2008

493.5. Special Volunteer License to Treat Indigent and Needy Persons – Eligible Volunteers

A. 1. There is established a special volunteer license for eligible volunteers from a medically related field who are retired from active practice or actively licensed in another state and practicing in that state and wish to donate their expertise for the care and treatment of indigent and needy persons of this state.

2. For purposes of this section:

a. “eligible volunteer” means a physician, physician assistant, nurse, dentist, optometrist or pharmacist, and

b. “nurse” means an advanced practice nurse, advanced registered nurse practitioner, registered nurse, or licensed practical nurse.

3. The special volunteer license shall be:

a. issued by the State Board of Medical Licensure and Supervision to eligible physicians and physician assistants, by the Board of Osteopathic Examiners to eligible physicians, by the Oklahoma Board of Nursing to eligible nurses, the Board of Dentistry to eligible dentists, the Board of Examiners in Optometry to eligible optometrists, and by the Board of Pharmacy to eligible pharmacists,

b. issued without the payment of an application fee, license fee or renewal fee,

c. issued or renewed without any continuing education requirements in this state,

d. issued for a period of time to be determined by the applicable board, and

e. renewable upon approval of the applicable Board.

B. An eligible volunteer shall meet the following requirements before obtaining a special volunteer license:

1. Completion of a special volunteer license application, including, as applicable, documentation of:

a. the medical school graduation of the physician,

- b. the completion of a physician assistant program by a physician assistant,
- c. the completion of the basic professional curricula of a school of nursing by the nurse,
- d. the dental school graduation of the dentist,
- e. the optometry school graduation of the optometrist, or
- f. the school or college of pharmacy graduation of a pharmacist, and
- g. the relevant practice history of the applicant;

2. Documentation or electronic verification that the eligible volunteer has been previously issued a full and unrestricted license to practice in Oklahoma or in another state of the United States and written acknowledgment that he or she has never been the subject of any professional disciplinary action in any jurisdiction;

3. Written acknowledgement that the practice of the eligible volunteer under the special volunteer license will be exclusively and totally devoted to providing care to needy and indigent persons in Oklahoma or to providing care under the Oklahoma Medical Reserve Corps; and

4. Written acknowledgement that the eligible volunteer shall not receive or have the expectation to receive any payment or compensation, either direct or indirect, for any services rendered in this state under the special volunteer license. The only exception to the indirect compensation provision is for those out-of-state physicians, physician assistants, nurses, dentists, optometrists or pharmacists that participate in the free care given by means of Telemedicine through the Shriners Hospitals for Children national network.

Added by Laws 2003, HB 1140, c. 138, § 1, eff. November 1, 2003; Amended by Laws 2004, HB 2464, c. 313, § 17, emerg. eff. May 19, 2004; Amended by Laws 2004, SB 369, c. 523, §24, emerg. eff. June 9, 2004; Amended by Laws 2007, SB 620, c. 133, § 3, eff. November 1, 2007; Amended by Laws 2009, HB 1481, c. 247, § 1, eff. November 1, 2009; Amended by Laws 2009, HB 1678, c. 255, § 1, eff. November 1, 2009; Amended by Laws 2009, HB 1481, c. 247, § 1 (repealed by Laws 2010, SB 2113, c. 2, § 29, emerg. eff. March 3, 2010); Amended by Laws 2010, SB 1311, c. 247, § 2, emerg. eff. May 10, 2010.

494. Repealed

Repealed by Laws 1994, c. 323, § 38, eff. July 1, 1994.

494.1. Medical Licensure Examination - Application

A. The State Board of Medical Licensure and Supervision shall offer a medical licensure examination as necessary to test the qualifications of applicants.

1. Except as otherwise provided, no person shall receive a license to practice medicine and surgery in this state unless he or she passes or has passed all required examinations satisfactory to the Board.

2. The Board shall approve the preparation and administration of any examination, in English, that it deems necessary to determine an applicant's ability to practice medicine and surgery with reasonable skill and safety.

3. Examinations shall be reviewed and scored in a way to ensure the anonymity of applicants.

4. Examinations shall be conducted at least semiannually, provided that there is an applicant.

5. The Board shall specify the minimum score required to pass any examination. The required passing score shall be specified prior to the administration of any examination.

6. Applicants shall be required to pass all examinations with a score as set by rule, within a specific period of time after initial application. Specific requirements for the satisfactory completion of further medical education shall be established by the Board for those applicants seeking to be examined after the specified period of time after initial application.

7. The Board may limit the number of times an applicant may take an examination before the satisfactory completion of further medical education is required of an applicant, provided that this limitation may be waived by the Board for good cause.

8. Fees for any examination shall be paid by an applicant prior to the examination and no later than a date set by the Board.

B. To apply for an examination, an applicant shall provide the Board and attest to the following information and documentation no later than a date set by the Board:

1. His or her full name and all aliases or other names ever used, current address, social security number, and date and place of birth;

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

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

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

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

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

7. A detailed educational history, including places, institutions, dates, and program descriptions, of the applicant's education including all college, preprofessional, professional, and professional graduate education;

8. A detailed chronological life history from age eighteen (18) to present, including places and dates of residence, employment, and military service (United States or foreign); and

9. Any other information or documentation specifically requested by the Board that is related to the applicant's eligibility to sit for the examination.

C. No person shall subvert or attempt to subvert the security of any medical licensure examination. The Board shall establish procedures to ensure the security and validity of all medical licensure examinations.

Any individual found by the Board to have engaged in conduct that subverts or attempts to subvert the medical licensing examination process may have his or her scores on the licensing examination withheld and/or declared invalid, be disqualified from the practice of medicine and surgery, and/or be subject to the imposition of other appropriate sanctions. The Board shall notify the Federation of State Medical Boards of the United States of any such action.

Conduct that subverts or attempts to subvert the medical licensing examination process shall include, but not be limited to:

1. Conduct that violates the security of the examination materials, such as removal from the examination room of any of the examination materials; reproduc-

tion or reconstruction of any portion of the licensure examination; aid by any means in the reproduction or reconstruction of any portion of the licensure examination; sale, distribution, purchase, receipt or unauthorized possession of any portion of a future, current or previously administered licensure examination; and/or

2. Conduct that violates the standard of test administration, such as communication with any other examinee during the administration of the licensure examination; copying answers from another examinee or by knowingly permitting one's answers to be copied by another examinee during the administration of the licensure examination; possession during the administration of the licensing examination, unless otherwise required or authorized, of any books, notes, written or printed materials or data of any kind, other than the examination distributed; and/or

3. Conduct that violates the credentialing process, such as falsification or misrepresentation of educational credentials or other information required for admission to the licensure examination; impersonation of an examinee or having an impersonator take the licensure examination on one's behalf.

D. The Board shall provide written notice to all applicants for medical licensure of such prohibitions and of the sanctions imposed for such conduct. A copy of such notice, attesting that the applicant has read and understands the notice, shall be signed by the applicant and filed with the application.

Added by Laws 1994, c. 323, § 18, eff. July 1, 1994; Amended by Laws 1998, c. 324, § 7, eff. May 28, 1998

495. Certificates

When an applicant shall have shown that he or she is qualified as herein required, a license, in form approved by the State Board of Medical Licensure and Supervision and attested by the seal of the Board, shall be issued to the applicant by the Board, authorizing the applicant to practice medicine and surgery within the meaning of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act.

Added by Laws 1923, c. 59, p. 106, § 15. Amended by Laws 1994, c. 323, § 19, eff. July 1, 1994; Laws 1995, c. 211, § 4, eff. Nov. 1, 1995; Amended by Laws 1998, c. 324, § 8, eff. May 28, 1998

495a. Repealed

Repealed by Laws 1994, c. 323, § 38, eff. July 1, 1994.

495a.1. Demonstration of Licensee's Continuing Qualification to Practice Medicine and Surgery

A. At regular intervals set by the Board, no less than one time per annum, each licensee licensed by this act shall demonstrate to the Board the licensee's continuing qualification to practice medicine and surgery. The licensee shall apply for license reregistration on a form(s) provided by the Board, which shall be designed to require the licensee to update and/or add to the information in the Board's file relating to the licensee and his or her professional activity. It shall also require the licensee to report to the Board the following information:

1. Any action taken against the licensee for acts or conduct similar to acts or conduct described in this act as grounds for disciplinary action by:

- a. any jurisdiction or authority (United States or foreign) that licenses or authorizes the practice of medicine and surgery,
- b. any peer review body,

- c. any health care institution,
- d. any professional medical society or association,
- e. any law enforcement agency,
- f. any court, or
- g. any governmental agency;

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

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

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

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

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

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

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

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

B. The Board may require continuing medical education for license reregistration and require documentation of that education.

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

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

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

Added by Laws 1994, c. 323, § 20, eff. July 1, 1994.

495b. Practice Medicine Without Renewal Certificate

Any person practicing medicine and surgery in Oklahoma as defined by law without having the legal possession of a current renewal license shall be guilty of a

misdeemeanor and upon conviction be punished by a fine of not less than One Thousand Dollars (\$1,000.00), and such practice shall constitute grounds for the revocation or suspension of his or her license to practice medicine and surgery in this state.

Added by Laws 1941, p. 243, § 2, emerg. eff. May 15, 1941. Amended by Laws 1987, c. 118, § 16, operative July 1, 1987; Laws 1994, c. 323, § 21, eff. July 1, 1994.

495c. Renewal Fees- Depository funds - Disposition

A. Each application for reregistration, as set forth in Section 20 (495a.1) of this act, shall be accompanied by a reregistration fee in an amount fixed by the Board.

B. All reregistration fees paid to the secretary of the Board under the provisions of this act shall be deposited with the State Treasurer, who shall place the same in the regular depository fund of the Board. Said fund, less the ten percent (10%) gross fees paid into the General Fund of the state under the provisions of Sections 211 through 214 of Title 62 of the Oklahoma Statutes, shall be expended in the manner and for the purposes now provided by law.

Added by Laws 1941, p. 243, § 3, emerg. eff. May 15, 1941. Amended by Laws 1970, c. 145, § 2, emerg. eff. April 7, 1970; Laws 1987, c. 118, § 17, operative July 1, 1987; Laws 1994, c. 323, § 22, eff. July 1, 1994.

495d. Failure to Apply for Reregistration – Fee for Reinstatement

If a licensee fails to apply for reregistration within sixty (60) days from the end of the previous registration period, as provided in this act, his original license to practice medicine and surgery in this state shall be suspended and the Board shall report to the office of the district attorney of the county of practice any physician who failed to reregister if the physician's practice is still in Oklahoma. Said original license shall, upon due application by said person therefore, be reinstated by the Board or its agent designated for that purpose if and when the applicant furnishes satisfactory proof that:

(a) The licensee had not practiced medicine or surgery in any other state or territory of the United States in violation of the laws thereof during said period;

(b) The licensee's license to practice medicine or surgery had not been revoked in any other such state or territory during said period;

(c) The licensee has not been convicted of a felony or the violation of the narcotic laws of the United States during said period; and

(d) The licensee has met the same standards for licensure as is required at the time for initial licensure and the latest reregistration period.

A fee set by the Board shall accompany the application for reinstatement. The Board may in its discretion require the applicant to take and pass an examination prescribed by it to assess the applicant's clinical competency unless the applicant can show that fifty percent (50%) of his monthly activities during the time the applicant's Oklahoma license has been inactive include the practice of medicine.

Added by Laws 1951, p. 165, § 1, emerg. eff. Feb. 26, 1951. Amended by Laws 1987, c. 118, § 18, operative July 1, 1987; Laws 1994, c. 323, § 23, eff. July 1, 1994.

495e. Right of Appeal

Any licensee whose reregistration application is rejected by the Board, shall have the right to appeal from such action to the district court of the county of residence. If the licensee does not reside or practice in Oklahoma, appeal shall be to the Oklahoma County District Court.

Added by Laws 1951, p. 165, § 2, emerg. eff. Feb. 26, 1951. Amended by Laws 1994, c. 323, § 24, eff. July 1, 1994.

495f. Repealed

Repealed by Laws 1994, c. 323, § 38, eff. July 1, 1994.

495g. Repealed

Repealed by Laws 1994, c. 323, § 38, eff. July 1, 1994.

495h. Reinstatement of License or Certificate - Evidence of Professional Competence, Good Moral Character

The State Board of Medical Licensure and Supervision may require satisfactory evidence of professional competence and good moral character from applicants requesting reinstatement of any license or certificate issued by the Board. The Board may set criteria for measurement of professional competency by rule.

Added by Laws 1995, c. 211, § 5, eff. November 1, 1995; Amended by Laws 2004, SB 369, c. 523, § 6, emerg. eff. June 9, 2004.

496. Repealed

Repealed by Laws 1983, c. 159, § 4, operative July 1, 1983.

497. Licenses - Duplicates

The State Board of Medical Licensure and Supervision is hereby authorized to issue a duplicate license to any licensee of this state, who may have lost his license except through suspension, failure to renew, revocation or denial; provided, that the application, properly verified by oath, be made upon forms provided for that purpose; and provided, further, that a fee set by the Board shall be paid.

Laws 1923, c. 59, p. 106, § 17, eff. March 31, 1923. Amended by Laws 1987, c. 118, § 20, operative July 1, 1987.

498. Repealed

Repealed by Laws 1983, c. 159, § 4, operative July 1, 1983.

499. Repealed

Repealed by Laws 1949, p. 403, § 1a.

500. Licensee's Current Practice Location and Mailing Address – Official Verification of Licensure

Each person holding a license authorizing the practice of medicine and surgery in this state shall notify the State Board of Medical Licensure and Supervision, in writing, of such licensee's current practice location and mailing address. Each licensee shall carry on his or her person at all times while engaged in such practice of medicine and surgery official verification of valid and effective licensure as may be issued by the Board.

Added by Laws 1923, c. 59, p. 107, § 20, emerg. eff. March 31, 1923; Amended by Laws 1987, c. 118, § 21, operative July 1, 1987; Amended by Laws 1994, c. 323, § 25, eff. July 1, 1994; Amended by Laws 2004, SB 369, c. 523, § 7, emerg. eff. June 9, 2004.

501. Repealed

Repealed by Laws 1990, c. 163, § 7, eff. Sept 1, 1990.

502. Repealed

Repealed by Laws 1990, c. 163, § 7, eff. Sept 1, 1990.

503. Suspension or Revocation of License for Unprofessional Conduct

The State Board of Medical Licensure and Supervision may suspend, revoke or order any other appropriate sanctions against the license of any physician or surgeon holding a license to practice in this state for unprofessional conduct, but no such suspension, revocation or other penalty shall be made until the licensee is cited to appear for hearing. No such citation shall be issued except upon sworn complaint filed with the secretary of the Board, charging the licensee with having been guilty of unprofessional conduct and setting forth the particular act or acts alleged to constitute unprofessional conduct. In the event it comes to the attention of the Board that a violation of the rules of professional conduct may have occurred, even though a formal complaint or charge may not have been filed, the Board may conduct an investigation of the possible violation, and may upon its own motion institute a formal complaint. In the course of the investigation persons appearing before the Board may be required to testify under oath. Upon the filing of a complaint, either by an individual or the Board as provided herein, the citation must forthwith be issued by the secretary of the Board over the signature of the secretary and seal of the Board, setting forth the complaint of unprofessional conduct, and giving due notice of the time and place of the hearing by the Board. The citation shall be made returnable at the next regular meeting of the Board occurring at least thirty (30) days after the service of the citation. The defendant shall file a written answer under oath with the secretary of the Board within twenty (20) days after the service of the citation. The secretary of the Board may extend the time of answer upon satisfactory showing that the defendant is for reasonable cause, unable to answer within the twenty (20) days, but in no case shall the time be extended beyond the date of the next regular meeting of the Board, unless a continuance is be granted by the Board.

Added by Laws 1923, c. 59, p. 108, § 23, emerg. eff. March 31, 1923. Amended by Laws 1955, p. 328, § 1, emerg. eff. March 17, 1955; Laws 1987, c. 118, § 23, operative July 1, 1987; Laws 1994, c. 323, § 26, eff. July 1, 1994; Laws 1995, c. 211, § 6, eff. Nov. 1, 1995.

503.1. Temporary Immediate Suspension of License if Emergency Exists

The Secretary of the Board, upon concurrence of the President of the Board that an emergency exists for which the immediate suspension of a license is imperative for the public health, safety and welfare, may conduct a hearing as contemplated by Section 314 of Title 75 of the Oklahoma Statutes to suspend temporarily the license of any person under the jurisdiction of the Board.

Added by Laws 1994, c. 323, § 27, eff. July 1, 1994.

504. Process - How Served

All citations and subpoenas, under the contemplation of this act, shall be served in general accordance with the statutes of the State of Oklahoma then in force applying to the service of such documents, and all provisions of the statutes of the state then in force, relating to citations and subpoenas, are hereby made applicable to the citations and subpoenas herein provided for. All the provisions of the statutes of the state, then in force, governing the taking of testimony by depositions, are made applicable to the taking of depositions under this act. The attendance of witnesses shall be compelled in such hearings by subpoenas issued by the secretary of the State Board of Medical Licensure and Supervision over the seal thereof, and the secretary shall in no case refuse to issue such subpoenas upon praecipe filed therefor accompanied with the fee of Five Dollars (\$5.00) for each subpoena issued. If any person refuse to obey such subpoena served upon him in such manner, the fact of such refusal shall be certified by the secretary of the Board, over the seal thereof, to the district court of the county in which such service was had, and the court shall proceed to hear said matter in accordance with the statutes of the state then in force governing contempt as for disobedience of its own process.

Laws 1923, c. 59, p. 109, § 24, eff. March 31, 1923. Amended by Laws 1987, c. 118, § 24, operative July 1, 1987.

505. State as Party to Actions

It is hereby provided that the State of Oklahoma is a proper and necessary party in the prosecution of all such actions and hearings before the Board in all matters pertaining to unprofessional conduct under the contemplation of this act and the Attorney General of the state, in person, or by deputy, is authorized and directed to appear in behalf thereof and the defendant in such action shall have the right to be represented by counsel. The Board shall sit as a trial body and the rulings of the president thereof in all questions shall be the rulings of the Board, unless reversed by a majority vote of the Board upon appeal thereto from such rulings of the president. The secretary shall preserve a record of all proceedings in such hearings and shall furnish a transcript thereof to the defendant upon request therefor, provided the said defendant shall pay the actual cost of preparing such transcript. If the services of a court reporter are requested, the court reporter shall be reimbursed or paid by the party who made such request.

Added by Laws 1923, c. 59, p. 109, § 25, emerg. eff. March 31, 1923. Amended by Laws 1987, c. 118, § 25, operative July 1, 1987; Laws 1994, c. 323, § 28, eff. July 1, 1994.

506. Suspension or Revocation of License – Terms and Conditions - Reinstatement

A. If it is the decision of the State Board of Medical Licensure and Supervision, after considering all the testimony presented, that the defendant is guilty as charged, the Board shall revoke the license of the defendant, and the defendant's rights to practice medicine and surgery. The Board, however, may suspend a license, during which suspension the holder of such suspended license shall not be entitled to practice medicine and surgery thereunder. If during suspension, the defendant practiced medicine or surgery or has been guilty of any act of unprofessional conduct, as defined by the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, the Board may revoke the license of such licensee or place the licensee upon probation for any period of time not less than one (1) year, nor more than five (5) years, or on second offense place the licensee on probation for an indefinite period of time, during which time the

licensee's conduct will be kept under observation. The Board, furthermore, may impose on the defendant, as a condition of any suspension or probation, a requirement that the defendant attend and produce evidence of successful completion of a specific term of education, residency, or training in enumerated fields and/or institutions as ordered by the Board based on the facts of the case. The education, residency, or training shall be at the expense of the defendant. The Board may also impose other disciplinary actions as provided for in Section 509.1 of this title. At the end of any term of suspension imposed by the Board, the applicant for reinstatement shall show to the Board successful completion of all conditions and requirements imposed by the Board and demonstrate eligibility for reinstatement.

B. Immediately upon learning that a licensee has been convicted of a felonious violation of a state or federal narcotics law, the Executive Director of the Board shall summarily suspend the license and assign a hearing date for the matter to be presented to the Board. Immediately upon learning that a licensee is in violation of a Board-ordered probation, the Executive Director of the Board may summarily suspend the license based on imminent harm to the public and assign a hearing date for the matter to be presented at the next scheduled Board meeting.

Added by Laws 1923, c. 59, p. 109, § 26, emerg. eff. March 31, 1923. Amended by Laws 1963, c. 200, § 1, emerg. eff. June 10, 1963; Laws 1987, c. 118, § 26, operative July 1, 1987; Laws 1994, c. 323, § 29, eff. July 1, 1994; Laws 1995, c. 211, § 7, eff. Nov. 1, 1995; Amended by Laws 1998, c. 324, § 9, eff. May 28, 1998; Amended by Laws 2009, HB 1897, c. 261, § 6, emerg. eff. July 1, 2009.

507. Repealed

Repealed by Laws 1994, c. 323, § 38, eff. July 1, 1994.

508. Fraud

A. Whenever any license has been procured or obtained by fraud or misrepresentation, or was issued by mistake; or if the diploma of graduation in medicine and surgery or any other credentials required as necessary to the admission to the examination for license were obtained by fraud or misrepresentation or were issued by mistake; or if the reciprocity endorsement from another state, upon which a license has been issued in this state, was procured by fraud or misrepresentation, or was issued by mistake, it shall be the duty of the State Board of Medical Licensure and Supervision to take appropriate disciplinary action in the same manner as is provided by the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act for the disciplining of unprofessional conduct.

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

Added by Laws 1923, c. 59, p. 110, § 28, emerg. eff. March 31, 1923; Amended by Laws 1987, c. 118, § 27, operative July 1, 1987; Amended by Laws 1994, c. 323, § 30, eff. July 1, 1994; Amended by Laws 2002, HB 2078, c. 213, § 3, emerg. eff. May 8, 2002.

508.1. State Board of Medical Examiners – Revocation of License

At any time after the Board has revoked or suspended the license to practice medicine or surgery of any person, the Board, upon its own motion and of its own authority and right, may reconsider such order and decision for any reason deemed by it to be sufficient and may, in its discretion, reinstate the license of such person.

Added by Laws 1943, p. 135, § 1, emerg. eff. March 24, 1943. Amended by Laws 1987, c. 118, § 28, operative July 1, 1987; Laws 1994, c. 323, § 31, eff. July 1, 1994.

508.2. Revocation of License – Application to Reinstate

A. At any time after the expiration of twelve (12) months from the date the license of any person to practice medicine or surgery has been revoked with right to reapply, or at any time after the expiration of six (6) months from the date the license of any person to practice medicine or surgery has been suspended by the State Board of Medical Licensure and Supervision, such person whose license has been so revoked or suspended may file an application with the secretary of the Board, together with an application fee set by the Board, to reinstate the license. A licensee who has had a license revoked, suspended or who has surrendered a license in lieu of prosecution shall not be reinstated and no probation shall be lifted unless the licensee has paid all fines and reimbursements in a manner satisfactory to the Board.

B. The application shall be assigned for hearing at the next regular meeting of the Board following the filing thereof. In addition, the Board may authorize the secretary to hold a hearing on the application at any time. In such cases, the Board shall have the authority and right to reconsider the order and decision of revocation or suspension.

C. For such causes and reasons deemed by it sufficient and for the best interest of the medical profession and the citizens of this state, the Board may reinstate a license of an applicant and issue the order therefor.

D. The Board may negotiate with the licensee a plan of repayment for any fines or other costs that is satisfactory to the Board.

Added by Laws 1943, p. 135, § 2, emerg. eff. March 24, 1943; Amended by Laws 1987, c. 118, § 29, operative July 1, 1987; Amended by Laws 1994, c. 323, § 32, eff. July 1, 1994; Amended by Laws 2004, SB 369, c. 523, § 8, emerg. eff. June 9, 2004.

508.3. Repealed

Repealed by Laws 1994, c. 323, § 38, eff. July 1, 1994.

509. Unprofessional Conduct - Definition

The words “unprofessional conduct” as used in Sections 481 through 514 of this title are hereby declared to include, but shall not be limited to, the following:

1. Procuring, aiding or abetting a criminal operation;
2. The obtaining of any fee or offering to accept any fee, present or other form of remuneration whatsoever, on the assurance or promise that a manifestly incurable disease can or will be cured;
3. Willfully betraying a professional secret to the detriment of the patient;
4. Habitual intemperance or the habitual use of habit-forming drugs;
5. Conviction of a felony or of any offense involving moral turpitude;
6. All advertising of medical business in which statements are made which are grossly untrue or improbable and calculated to mislead the public;
7. Conviction or confession of a crime involving violation of:
 - a. the antinarcotic or prohibition laws and regulations of the federal government,
 - b. the laws of this state, or
 - c. State Board of Health rules;

8. Dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public;

9. The commission of any act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine. A complaint, indictment or confession of a criminal violation shall not be necessary for the enforcement of this provision. Proof of the commission of the act while in the practice of medicine or under the guise of the practice of medicine shall be unprofessional conduct;

10. Failure to keep complete and accurate records of purchase and disposal of controlled drugs or of narcotic drugs;

11. The writing of false or fictitious prescriptions for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs;

12. Prescribing or administering a drug or treatment without sufficient examination and the establishment of a valid physician-patient relationship;

13. The violation, or attempted violation, direct or indirect, of any of the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, either as a principal, accessory or accomplice;

14. Aiding or abetting, directly or indirectly, the practice of medicine by any person not duly authorized under the laws of this state;

15. The inability to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this subsection the State Board of Medical Licensure and Supervision may, upon probable cause, request a physician to submit to a mental or physical examination by physicians designated by it. If the physician refuses to submit to the examination, the Board shall issue an order requiring the physician to show cause why the physician will not submit to the examination and shall schedule a hearing on the order within thirty (30) days after notice is served on the physician. The physician shall be notified by either personal service or by certified mail with return receipt requested. At the hearing, the physician and the physician's attorney are entitled to present any testimony and other evidence to show why the physician should not be required to submit to the examination. After a complete hearing, the Board shall issue an order either requiring the physician to submit to the examination or withdrawing the request for examination. The medical license of a physician ordered to submit for examination may be suspended until the results of the examination are received and reviewed by the Board;

16. Prescribing, dispensing or administering of controlled substances or narcotic drugs in excess of the amount considered good medical practice, or prescribing, dispensing or administering controlled substances or narcotic drugs without medical need in accordance with published standards;

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

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

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

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

Added by Laws 1923, c. 59, p. 110, § 29, emerg. eff. March 31, 1923; Amended by Laws 1925, c. 63, p. 96, § 5, emerg. eff. April 6, 1925; Amended by Laws 1973, c. 99, § 1, emerg. eff. May 2, 1973; Amended by Laws 1980, c. 208, § 1, emerg. eff. May 30, 1980; Amended by Laws 1993, c. 338, § 1, eff. September 1, 1993; Amended by Laws 1995, c. 211, § 8, eff. November 1, 1995; Amended by Laws 1998, c. 324, § 10, eff. May 28, 1998; Amended by Laws 2004, SB 369, c. 523, § 9, emerg. eff. June 9, 2004; Amended by Laws 2009, HB 1897, c. 261, § 7, emerg. eff. July 1, 2009.

509.1. Range of Actions – Letter of Concern – Examination/Evaluation – Disciplinary Action Against Licensees – Surrender in Lieu of Prosecution

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

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

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

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

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

D. DISCIPLINARY ACTION AGAINST LICENSEES:

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

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

Reports of all disciplinary action provided for in this section will be available for the public upon request.

SURRENDER IN LIEU OF PROSECUTION:

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

- a. expressing the licensee's desire to surrender the license,
- b. acknowledging that the surrender is freely and voluntarily made, that the licensee has not been subjected to coercion or duress, and that the licensee is fully aware of the consequences of the license surrender,
- c. stating that the licensee is the subject of an investigation or proceeding by the Board or a law enforcement or other regulatory agency involving allegations which, if proven, would constitute grounds for disciplinary action by the Board, and
- d. specifically admitting to and describing the misconduct.

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

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

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

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

Added by Laws 1994, c. 323, § 33, eff. July 1, 1994; Amended by Laws 1999, c. 23, § 2, eff. November 1, 1999; Amended by Laws 2002, HB 2078, c. 213, § 4, emerg. eff. May 8, 2002; Amended by Laws 2004, SB 369, c. 523, § 10, emerg. eff. June 9, 2004; Amended by Laws 2009, HB 1897, c. 261, emerg. eff. July 1, 2009.

510. Corporations - Firms - Practice of Medicine

It shall be the duty of all firms, associations, or corporations engaged in the practice of medicine within the meaning of this act, within the State of Oklahoma, under whatsoever name or designation, before entering the practice thereof, to report in writing to the county clerk of the county in which such business is to be conducted, the names and addresses of all physicians connected therewith who propose to practice medicine and surgery under such name or designation, or in connection therewith, within said county and state; and from time to time thereafter such additional names and addresses as may be added thereto for the purpose of engaging in such practice under such firm name and designation, shall be so reported; Provided, that nothing in this section shall operate or be construed to waive the requirements that each and every member of such

firm, association or corporation so practicing medicine and surgery thereunder, shall be duly licensed to practice medicine and surgery in the State of Oklahoma. Any firm, association or corporation, or any member or agent thereof, violating any of the provisions of this section, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not to exceed One Hundred Dollars (\$100.00), and each day's practice shall be deemed a separate offense.

Laws 1923, c. 59, p. 111, § 30.

511. Fees - Vouchers

All monies accruing to the Board from fees herein provided for, and from all other sources whatsoever, shall be received by the secretary who shall make deposit thereof with the State Treasurer, who shall place the same in a designated depository fund to the credit of the Board. All salaries and expenses of the Board shall be paid from said depository fund upon proper vouchers approved by the secretary of the Board in the usual manner as the other similar departments of state. It is further provided that, at the end of each fiscal year, the unexpended balance of such funds shall be carried forward and placed to the credit of the Board for the succeeding fiscal year.

Added by Laws 1923, c. 59, p. 112, § 31, emerg. eff. March 31, 1923. Amended by Laws 1987, c. 118, § 30, operative July 1, 1987; Laws 1994, c. 323, § 34, eff. July 1, 1994.

512. Secretary's Salary – Hiring of Attorneys and Investigators – Contracts with State Agencies – Travel Expenses

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

The Board shall have the authority to hire one or more investigators as may be necessary to carry out the provisions of this act at an annual salary to be fixed by the Board. Such investigators may be commissioned peace officers of this state. In addition such investigators shall have the authority and duty to investigate and inspect the records of all persons in order to determine whether or not the narcotic laws or the dangerous drug laws have been complied with.

The Board is specifically authorized to contract with state agencies or other bodies to perform investigative services at a rate set by the Board.

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

The expenditures authorized herein shall not be a charge against the state, but the same shall be paid solely from the Board's depository fund.

Added by Laws 1923, c. 59, p. 112, § 32, emerg. eff. March 31, 1923; Amended by Laws 1970, c. 145, § 3, emerg. eff. April 7, 1970; Amended by Laws 1980, c. 159, § 12, emerg. eff. April 2, 1980; Amended by Laws 1985, c. 178, § 33, operative July 1, 1985; Amended by Laws 1987, c. 118, § 31, operative July 1, 1987; Amended by Laws 1994, c. 323, § 35, eff. July 1, 1994; Amended by Laws 2002, HB 2078, c. 213, § 5, emerg. eff. May 8, 2002.

513. Quasi-Judicial Powers of Board

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

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

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

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

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

Added by Laws 1923, c. 59, p. 112, § 33, emerg. eff. March 31, 1923. Amended by Laws 1925, c. 63, p. 96, § 6, emerg. eff. April 6, 1925; Amended by Laws 1935, p. 56, § 2, emerg. eff. May 13, 1935; Amended by Laws 1987, c. 118, § 32, operative July 1, 1987; Amended by Laws 1994, c. 323, § 36, eff. July 1, 1994; Amended by Laws 1998, c. 374, § 3, eff. November 1, 1998; Amended by Laws 2004, SB 369, c. 523, § 11, emerg. eff. June 9, 2004.

514. Partial Invalidity Clause

In the event any of the provisions of this act shall be held unconstitutional, the same shall not affect the enforcement of the other provisions hereof.

Laws 1923, c. 59, p. 112, § 34.

515. Repealed

Repealed by Laws 1994, c. 323, § 38, eff. July 1, 1994.

516. Repealed

Repealed by Laws 1994, c. 323, § 38, eff. July 1, 1994.

517. Repealed

Repealed by Laws 1994, c. 323, § 38, eff. July 1, 1994.

518. Emergency Care or Treatment - Immunity from Civil Damages or Criminal Prosecution

No person who is a licensed practitioner of a healing art in the State of Oklahoma, who in good faith renders emergency care or treatment at the scene of the emergency, shall be liable for any civil damages as a result of any acts or omissions by such person in rendering the emergency care or treatment, and no person who is a licensed practitioner of a healing art in the State of Oklahoma shall be prosecuted under the criminal statutes of this state for treatment of a minor without the consent of a minor's parent or guardian when such treatment was performed under emergency conditions and in good faith.

Laws 1961, p. 458, § 1; Laws 1967, c. 57, § 1; Laws 1968, c. 405, § 1, emerg. eff. May 17, 1968.

518.1 Allied Professional Peer Assistance Program

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

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

C. The Board may appoint and employ a qualified person or persons to serve as program coordinators and shall fix such person's compensation. The Board shall define the duties of the program coordinators who shall report directly to the Board.

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

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

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

G. Records and management information system of the professionals enrolled in the Allied Professional Peer Assistance Program and reports shall be maintained in the program office in a place separate and apart from the records of the Board. The records shall be made public only by subpoena and court order; provided however, confidential

treatment shall be cancelled upon default by the professional in complying with the requirements of the program.

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

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

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

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

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

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

Added by Laws 2009 , HB 1897, c. 261, § 3, emerg. eff. July 1, 2009.

Amended 6/25/11

***OKLAHOMA ADMINISTRATIVE CODE**

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION

CHAPTER 1. ADMINISTRATION AND ORGANIZATION

CHAPTER 3. INDIVIDUAL PROCEEDINGS

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Subchapter 11. Temporary and Special Licensure

Subchapter 13. Supervision of Advanced Practice Nurse with Prescriptive Authority

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CHAPTER 12. ALLIED PROFESSIONAL PEER ASSISTANCE PROGRAM

**This is an unofficial copy of Title 435, Chapters 1, 3, 5 and 10 of the Oklahoma Administrative Code. Official copies may be obtained from the Office of Administrative Rules.*

CHAPTER 1. ADMINISTRATION AND ORGANIZATION

Section

- 435:1 1 1. Purpose
- 435:1-1-1.1 Definitions
- 435:1 1 2. Description of organization
- 435:1 1 3. Method of operations
- 435:1 1 4. Individual proceedings [REVOKED]
- 435:1 1 5. Media coverage of Board meetings
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- 435:1 1 9. Declaratory rulings
- 435:1-1-10. Duties of the Secretary/Medical Advisor

[Authority: Title 59 O.S., Section 489, 75 O.S., Sections 302, 305, 307]

[Source: Codified 12 30 91]

435:1 1 1. Purpose

The rules of this Chapter have been adopted to establish the organizational and procedural framework of the agency and Board.

435:1-1-1.1 Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

“Act” means the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S. §§ 480 et seq.

“Board” means the Oklahoma Board of Medical Licensure and Supervision.

“Board offices” or **“Board’s office”** means the offices of the Board at which business of the Board is conducted.

[Source: Added at 11 Ok Reg 4525, eff 7-27-94 (emergency); Added at 12 Ok Reg 1209, eff 5-11-95]

435:1-1-2. Description of organization

(a) The Board is created by the Oklahoma Legislature, 59 O.S. Section 481. The Board has the authority and duty to regulate and administer the practice of allopathic medicine in this state and related practice placed under the authority of the Board by the Oklahoma Legislature.

(b) The Board consists of nine (9) members who are qualified and appointed in accordance with the provisions of 59 O.S. Section 482. The two (2) lay members of the Board, appointed in accordance with 59 O.S. § 481, shall participate in all matters before the Board.

(c) The powers and duties of the Board are set forth in the Act, the Physical Therapy Practice Act, 59 O.S. Sections 887.1 through 887.17, the Registered Electrologist Act, 59 O.S. Sections 536.1 through 536.14, the Occupational Therapy Practice Act, 59 O.S. Sec-

tions 888.1 through 888.16, the Registered Dietitian Act, 59 O.S. Sections 1721 through 1740, the Athletic Trainers Act, 59 O.S. Sections 525 through 535, and the Physician Assistant Act, 59 O.S. Sections 519 through 524, the Respiratory Care Practice Act, 59 O.S. Sections 2026 through 2045, the Oklahoma Licensed Podiatrists Act, 59 O.S. Sections 2301 through 2308, and the Orthotics and Prosthetics Practice Act, 59 O.S. Sections 3001 through 3008 as amended.

[Source: Amended at 11 Ok Reg 4525, eff 7-27-94 (emergency); Amended at 12 Ok Reg 1209, eff 5-11-95; Amended at 16 Ok Reg 1999, eff 6-14-99; Amended at 21 Ok Reg 1047, eff 5-14-04]

435:1-1-3. Method of operations

(a) The central office of the Oklahoma State Board of Medical Licensure and Supervision is located in Oklahoma City, Oklahoma. The central office will be open during regular business hours as determined by the Board, each day except Saturday and Sunday and any legal holiday established by statute or proclamation of the Governor.

(b) The Board may open branch offices with location and hours of operation to be determined by the Board.

(c) Every communication in writing to the Board shall be addressed to the Board at the Board's central or branch office(s) unless the Board directs otherwise.

(d) The Board shall hold meetings in accordance with the Oklahoma Open Meetings Act. Special meetings may be called by the President and Secretary of the Board. Five (5) members of the Board constitute a quorum and may transact any business or hold any hearing by simple majority vote of a quorum.

(e) All rules and other written statements of policy or interpretations formulated, adopted or used by the Board in the discharge of its functions and all final orders, decisions, and opinions will be made available for public inspection during regular office hours at the Board's central office or branch office(s) when electronically feasible.

(f) All records of the Board which are public records pursuant to the Oklahoma Open Records Act shall be available for public review and copying during regular business hours at the Board's central office or branch office(s) when electronically feasible. Copies shall be available only upon appropriate arrangements for payment of applicable fees. Records of the Board which are subject to a permissive or mandatory privilege of confidentiality shall not be released to the public; provided that the Secretary of the Board or the Executive Director of the Board may, upon request, allow records subject to a permissive privilege of confidentiality to be open for public review and copying. It is the policy of the Board to maintain as confidential all patient records held by the Board in any file, pursuant to 12 O.S. § 2503, to every extent possible under law. It is the position and determination of the Board that investigative files of the Board are confidential under the Open Records Act.

(g) In the event the Board convenes a meeting by teleconference, the Board shall provide adequate space for any person to listen and view the meeting via appropriate audio and video equipment.

[Source: Amended at 11 Ok Reg 4525, eff 7-27-94 (emergency); Amended at 12 Ok Reg 1209, eff 5-11-95; Amended at Ok Reg 761, eff 10-24-95 (emergency); Amended at Ok Reg 1691; eff 5-25-96; Amended at 14 Ok Reg 3539; eff 7-1-97 (emergency); Amended at 15 Ok Reg 2016; eff 5-26-98]

435:1-1-4. Individual proceedings [Revoked]

[Source: Revoked at 11 Ok Reg 4155, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1209, eff 5-11-95]

435:1-1-5. Media coverage of Board meetings

Board meetings, or any portion thereof, may be broadcast, televised, recorded, or photographed in accordance with the following guidelines.

(1) The presiding officer of the Board, or his designee, shall designate a reasonable location or locations within the meeting room from which the broadcasting, televising, recording or photographing may take place.

(2) The broadcasting, televising, recording or photographic equipment employed at the Board meeting shall be silent and unobtrusive so as not to interfere with any individual's ability to hear, see and participate in the meeting and so as not to interfere with the orderly transaction of Board business.

(3) If the presiding officer, or his designee, determines that any such broadcasting, televising, recording or photographing is interfering with the orderly transaction of Board business, the presiding officer, or his designee, may limit such broadcasting, televising, recording or photographing to allow the orderly transaction of Board business.

435:1-1-6. Rulemaking procedures

(a) Submission of data. Prior to the adoption, amendment, or repeal of any rule, the Board shall afford any interested person a reasonable opportunity to submit data, views, or arguments, orally or in writing, to the Board concerning the proposed action on the rule. Should the proposed action on a rule affect one's substantive rights, the opportunity for an oral hearing will be granted if requested in writing by an individual or by an association. If no substantive rights are involved, the opportunity for oral arguments or views is in the discretion of the Board. The Board shall decide whether any substantive rights are involved.

(b) Petition on rules. Any interested person may petition the Board requesting the promulgation, amendment, or repeal of a rule. The petition shall be filed with the Secretary of the Board and shall set forth in writing, clearly and concisely, all matters pertaining to the requested action and reasons for the request. The request should also state whether there is someone known to the petitioner who is concerned with the subject and should be notified of the hearing.

(c) Hearing of petition. The Board, at the next regularly scheduled session after the completion of notice or at a special meeting specified in the notice, will hear the petition and notify the petitioner of the ruling within twenty (20) days after the decision. The Board may, at its discretion, postpone the discussion and ruling of the petition until the next regularly scheduled meeting or at a special meeting and all parties shall be notified of the postponement.

(d) APA notice requirements. In any rulemaking action, whether initiated by the Board or by petition, the Board shall comply with the current notice requirements in the Administrative Procedures Act [75 O.S., Section 301 et seq.].

(e) Notice of rulemaking proceedings. The notice shall be mailed to all interested persons who have made a request of the Board for advance notice of the rulemaking proceedings, or who were specified in the petition for the rules, and shall be published in the Oklahoma Gazette or its successor publication. Twenty (20) days time shall be calculated from the date of the mailing of notice or the publication, whichever is later.

(f) Place for hearings. Unless otherwise specified by the Board as stated in the notice, all hearings shall be conducted in the offices of the Board.

(g) Appearance at hearings. Any person who is interested in or affected by a proposed action may appear at such hearing. An appearance may be made individually, by an attorney, or by an authorized agent.

(h) Emergency rules. Emergency rules may be adopted by the Board without the

prescribed notice and hearing in accordance with the provisions of the Administrative Procedures Act in regard to emergency rules.

[Source: Amended at 11 Ok Reg 4525, eff 7-27-94 (emergency); Amended at 12 Ok Reg 1209, eff 5-11-95]

435:1-1-7. Fees

(a) Fee schedule. The Board shall fix the amount of the fees so that the total fees collected will be sufficient to meet the expenses of administering the provisions as set for in Title 59 O.S., Section 495c and 511 of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act provided, the Board shall not set the fees at an amount in excess of the amounts listed in this subsection.

(1) Licensure/registration. The following fees shall be assessed for licensure and registration:

(A) Medical Doctor - Full license

(i) Application processing fee - \$500.00

(ii) Reprocessing fee - \$125.00

(iii) Temporary license - \$250.00

(B) Medical Doctor - Special license

(i) Special training application processing fee - \$250.00 (This fee may be applied toward the application processing fee in (a)(1)(A)(i) of this section when the special license was issued for first year post graduate training purposes.)

(ii) Special training reprocessing fee - \$150.00

(C) Physician Assistants

(i) Initial application for licensure - \$150.00

(ii) Application to practice fee - \$50.00

(iii) Disciplinary hearing fee - actual cost of proceedings (including probation and other fees) as determined by the Board.

(D) Physical Therapist

(i) Application processing fee - \$100.00

(ii) Reprocessing fee - \$50.00

(iii) License - 50.00

(iv) Temporary permit - 25.00

(E) Physical Therapist Assistant

(i) Application processing fee - \$100.00

(ii) Reprocessing fee - \$30.00

(iii) License - 35.00

(iv) Temporary permit - 25.00

(F) Athletic Trainer

(i) Application processing fee - \$120.00

(ii) Reprocessing fee - \$35.00

(iii) License - 25.00

(G) Apprentice athletic trainer

(i) Application processing fee - \$25.00

(ii) Transfer processing fee - \$20.00

(iii) License - 5.00

(H) Licensed Dietitian

- (i) Application processing fee - \$60.00
- (ii) Reprocessing fee - \$30.00
- (iii) License - \$60.00
- (I) Provisional licensed dietitian
 - (i) Application processing fee - \$15.00
 - (ii) Reprocessing fee - \$30.00
 - (iii) License -\$15.00
- (J) Occupational therapist
 - (i) Application processing fee - \$70.00
 - (ii) Reprocessing fee - \$30.00
 - (iii) License - 50.00
- (K) Occupational therapy assistant
 - (i) Application processing fee - \$70.00
 - (ii) Reprocessing fee -\$30.00
 - (iii) License - 50.00
- (L) Registered electrologists
 - (i) Application processing fee -\$30.00
 - (ii) License - \$30.00
 - (iii) Examination fee - \$75.00
- (M) Respiratory Care - Full license
 - (i) Application processing fee - \$100.00
 - (ii) Reprocessing fee - \$30.00
- (N) Respiratory Care - Provisional license
 - (i) Application processing fee - \$100.00
 - (ii) Reprocessing fee - \$30.00
- (O) Licensed Pedorthists application processing fee -\$180.00
- (P) Licensed Orthotist/Prosthetist application processing fee -\$300.00
- (Q) Registered Orthotist/Prosthetist Assistant application processing fee -\$100.00
- (R) Registered Orthotist/Prosthetist Technician application processing fee -\$60.00
- (S) Radiologist Assistant application processing fee - \$100.00
- (T) Anesthesiology Assistant application processing fee - \$150.00
- (2) Renewal/reregistration of license/registration. The following fees shall be assessed for renewal/reregistration:
 - (A) Medical License - Full
 - (i) Application for annual reregistration fee - \$200.00
 - (ii) Reactivation processing fee - \$350.00
 - (iii) Reinstatement of license - \$500.00
 - (B) Medical License – Special
 - (i) Application for annual reregistration fee for special training - \$150.00
 - (ii) Application for annual reregistration fee for special limited - \$175.00
 - (iii) Reactivation processing fee for special training - \$200.00
 - (iv) Reactivation processing fee for special limited - \$250.00
 - (v) Reinstatement processing fee for special training - \$250.00

- (C) Physical Therapist
 - (i) Annual renewal fee - \$50.00
 - (ii) Renewal processing fee – \$40.00
 - (iii) Late fee (After January 31) - \$20.00
- (D) Physical Therapist Assistant
 - (i) Annual renewal fee - \$35.00
 - (ii) Renewal processing fee – \$25.00
 - (iii) Late fee (After January 31) - \$15.00
- (E) Physician Assistants
 - (i) Annual renewal fee - \$125.00
 - (ii) Late renewal fee - \$225.00
- (F) Athletic Trainer
 - (i) Application processing fee - \$45.00
 - (ii) Annual renewal fee - 10.00
 - (iii) Late fee (After August 30) - \$60.00
- (G) Apprentice athletic trainer
 - (i) Application processing fee - \$10.00
 - (ii) Annual renewal fee - 5.00
 - (iii) Late fee (After August 30) - \$10.00
- (H) Licensed Dietitian/provisional licensed dietitian
 - (i) Annual renewal fee - \$100.00
 - (ii) Penalty (after October 31) – \$50.00
 - (iii) Penalty (after January 31) - \$100.00
- (I) Occupational therapist/occupational therapy assistant
 - (i) Application processing fee - \$80.00
 - (ii) Annual renewal fee - 20.00
 - (iii) Late renewal (after October 31) - 20.00
- (J) Registered electrologists
 - (i) Application processing fee - \$25.00
 - (ii) Annual renewal fee - \$25.00
- (K) Respiratory Care - Full license
 - (i) Biennially renewal fee - \$100.00
 - (ii) Reinstatement - renewal fee plus \$120.00
- (L) Respiratory Care - Provisional license - six month renewal fee - \$100.00
- (M) Licensed Pedorthist
 - (i) Annual renewal fee – \$60.00
 - (ii) Late fee (up to 30 days late) –\$30.00
 - (iii) Late fee (30 days to 1 year late) –\$60.00
 - (iv) Reinstatement fee - \$180.00
- (N) Licensed Orthotist/Prosthetist
 - (i) Biennial renewal fee –\$150.00
 - (ii) Late fee (up to 30 days late) –\$60.00
 - (iii) Late fee (30 days to 1 year late) –\$120.00
 - (iv) Reinstatement fee –\$300.00
- (O) Registered Orthotist/Prosthetist Assistant

- (i) Biennial renewal fee –\$100.00
 - (ii) Late fee (up to 30 days late) – \$60.00
 - (iii) Late fee (30 days to 1 year late) – \$120.00
 - (iv) Reinstatement fee – \$100.00
 - (P) Registered Orthotist/Prosthetist Technician
 - (i) Biennial renewal fee – \$60.00
 - (ii) Late fee (up to 30 days late) – \$60.00
 - (iii) Late fee (30 days to 1 year late) – \$120.00
 - (iv) Reinstatement fee – \$60.00
 - (Q) Radiologist Assistants
 - (i) Biennial renewal fee - \$200.00
 - (ii) Late renewal fee - \$300.00
 - (R) Anesthesiology Assistants
 - (i) Biennial renewal fee - \$150.00
 - (ii) Late renewal fee - \$250.00
- (3) Duplication or modification of license/registration. The following fees shall be assessed for duplication or modification of a license/registration:
- (A) Medical License (Full) - \$60.00
 - (B) Physician Assistant - \$30.00
 - (C) Physical Therapist - \$60.00
 - (D) Physical Therapy Assistant - \$30.00
 - (E) Athletic Trainer - \$30.00
 - (F) Apprentice Athletic Trainer - \$20.00
 - (G) Licensed Dietitian - \$30.00
 - (H) Provisional Licensed Dietitian - \$30.00
 - (I) Occupational Therapist - \$30.00
 - (J) Occupational Therapy Assistant - \$30.00
 - (K) Special license - \$30.00
 - (L) Respiratory Care - \$30.00
 - (M) Licensed Pedorthist –\$30.00
 - (N) Licensed Orthotist/Prosthetist –\$30.00
 - (O) Registered Orthotist/Prosthetist Assistant –\$30.00
 - (P) Registered Orthotist/Prosthetist Technician –\$30.00
 - (Q) Radiologist Assistant - \$60.00
 - (R) Anesthesiologist Assistant - \$60.00
- (4) Miscellaneous fees. The following miscellaneous fees shall be assessed by the Board:
- (A) Certification of scores - \$50.00
 - (B) Written verification of license/registration - \$25.00
 - (C) Credentialing service –\$125.00 per licensee
 - (D) Web based services
 - (i) On-line monthly fee – \$60.00 (Three hundred (300) query returns included)
 - (ii) 301 to 350 queries per month – .60 per return
 - (iii) 351 to 400 queries per month – .30 per return

- (iv) 401 and above queries per month – .15 per return
 - (v) Database, statistical reports, mailing labels on floppy disks, CDs or by electronic mail – \$120.00/hour, minimum of one (1) hour. Fee is for one set of labels per order. Multiple labels may be printed for \$50.00 each additional set.
 - (E) Duplicate renewal/registration card - \$15.00
 - (F) Certification of public records (per page) - 1.00
 - (G) Duplication of public records (per page) - .25
 - (H) Unofficial transcript of public Board/Committee meetings (per page) - \$2.00
 - (I) Issuance of subpoena - \$6.00
 - (J) Payment reprocessing fee - \$30.00
 - (K) Rate for Investigations for other agencies or bodies - at cost with deposit of \$120.00 required to initiate investigation
 - (L) Premedical or Medical Education Qualifications Review - at cost with deposit of \$120.00 required to initiate action
 - (M) Monitoring fees for Agreements: Actual costs of any testing or monitoring provided for in the Agreement.
 - (N) Disciplinary action fees:
 - (i) Probation fees - \$150.00 per month.
 - (ii) Investigation/Prosecution fees - actual cost incurred.
 - (O) Filing of motions:
 - (i) Rehearing or reconsideration of any disciplinary case - \$120.00
 - (ii) Rehearing or reconsideration of any licensing case –\$120.00
 - (iii) Terminate or modify probation/agreement - \$120.00
 - (iv) Request for Specialty Board Certification under 435:10 7 2 - \$120.00
 - (v) Priority issuance of subpoena or duces tecum subpoena within seven (7) days of hearing - \$15.00
 - (vi) Request for exception as allowed by law/rules –\$120.00
 - (P) Reproduction of Board meeting video recording (per recording) - \$20.00
 - (Q) Reproduction of Board meeting audio recording (per recording) - \$20.00
 - (R) Administrative fine for practicing after revocation of license pursuant to 59 O.S. 491B – \$6,000/day
 - (S) Letter of Incorporation - \$5
 - (T) Annual continuing education course application fee - \$40.00 per course
 - (U) Board publications fee – at printing cost
 - (V) Website advertisements limited to sub-pages on www.okmedicalboard.org and www.awomansrighttoknowok.org websites. Vendor to sign a contract and agree to terms and conditions as set forth by the Board. Fee for six months advertising per page equals \$500.
- (b) Submission of fees.
- (1) All fees assessed by the Board as set out in the fee schedule in (a) of this section shall be received prior to processing an application for licensure or certification.
 - (2) All fees are non-refundable.

[Source: Amended at 9 Ok Reg 1585, eff 4 27 92; Amended at 10 Ok Reg 4371, eff 7 27 93 (emergency); Amended at 11 Ok Reg 2327, eff 5-26-94; Amended at 11 Ok Reg 4525, eff 7-27-94 (emergency); Amended at 12 Ok Reg 555, eff 12-12-94 (emergency); Amended at 12 Ok Reg 1209, eff 5-11-95; Amended at 13 Ok

Reg 1563, eff 8-21-95 (emergency); Amended at 13 Ok Reg 1563, eff 2-26-96 (emergency); Amended at 13 Ok Reg 1693, eff 5-25-96; Amended at 13 Ok Reg 2681, eff 6-27-96; Amended at 16 Ok Reg 1999, eff 6-14-99; Amended at 19 Ok Reg 2299, eff 6-28-02; Amended at 22 Ok Reg 942, eff 5-12-05; Amended at 23 Ok Reg 1094, eff 5-11-06; Amended at 25 Ok Reg 1963, eff 6-26-08; Amended at 26 Ok Reg 2574. eff 1-1-10]

435:1-1-8. Reporting information to Board

The following entities are required to report within 30 days after action is taken, to the Oklahoma State Board of Medical Licensure and Supervision in the manner prescribed as follows:

(1) Each entity (including an insurance company) which makes payments in satisfaction of judgment in a medical malpractice action or claim shall report the name of the physician, the amount of the payment, the name(s) of any hospital(s) with which the physician is associated or affiliated, a description of the acts or omissions and injuries or illness upon which the action or claim was based and any other information deemed necessary and requested by the Board.

(2) Each health care entity that takes a professional review action that adversely affects the clinical privileges of a physician for longer than 30 days, shall report to the Board name, description, other information.

(3) Each health care entity that accepts the surrender of clinical privileges by a physician while said physician is under investigation by the entity relating to possible incompetence or improper professional conduct, shall report to the Board name, description, other information.

(4) Each health care entity that accepts the surrender of clinical privileges by a physician in exchange for not conducting an investigation of possible incompetence or improper professional conduct, shall report to the Board name, description, other information.

(5) Any professional society or association which takes professional review action which adversely affects the membership of the physician shall report to the Board name, description, other information. *[Reference: PL 99 660, Sec. 401, Title IV 42 U.S.C. 11,101 et seq., part B - Reporting of Information]*

435:1-1-9. Declaratory rulings

(a) Any individual or group may petition the Board for a declaratory ruling as to the applicability of any statute, rule or order of the Board. Any other individual or group may file a response thereto.

(b) All petitions filed for a declaratory ruling by the Board shall set out fully the views of the petitioner giving any reasons and citations of legal authority he has in support of such views.

(c) The Board may request the petitioner, or any respondent, to present witnesses on any facts involved in the petition, or legal memorandum with citations of authority on any legal issues involved in his petition.

(d) The Board may initially assign a petition for declaratory ruling to an appropriate advisory committee and/or board subcommittee for its review and for a recommendation. The advisory committee and/or board subcommittee may hold hearings, take testimony, or require any legal memorandums that the Board may require. The findings or recommendation of any advisory committee or board subcommittee is not binding on the Board en banc.

(e) The Board shall give reasonable notice to the petitioner and any respondents in advance of making a final ruling and shall accompany any ruling with written findings

of fact and conclusions of law.

[Source: Amended at 11 Ok Reg 4525, eff 7-27-94 (emergency); Amended at 12 Ok Reg 1209, eff 5-11-95]

435:1-1-10. Duties of the Secretary/Medical Advisor

(a) The Secretary/Medical Advisor of the Board is hereby hired to perform duties to include, but not be limited to, the following:

(1) Perform all duties and obligations specified in Oklahoma statutes and elsewhere in the Board rules.

(2) Function on behalf of the Board and represent the Board in all matters in the interim period between Board meetings.

(3) Make final review and sign all licenses and certificates.

(b) The Secretary/Medical Advisor is not a voting member of the Board, but a representative of the Board and liaison for the Board in all matters of law, rules or directives of the Board.

(c) Further duties of the Secretary/Medical Advisor shall include, but not be limited to, the provision of medical and other advice and assistance as is necessary in the review and investigation of complaints and actions before the Board, to assist staff in all licensure matters, to sign subpoenas and administer oaths, and to bring civil actions as set forth in (d) of this section.

(d) Pursuant to the authority of 59 O.S. Supp. 1994, Sec. 491.1, the Board designates to the Secretary/Medical Advisor the authority to initiate injunctive actions to prevent the unlicensed or uncertified practice of any profession under the authority of the Board, to seek declaratory ruling to ascertain the proper scope of the Act and any other act which the board has the duty to enforce and administer, to bring civil actions for the recovery of debts owed to the Board by defendants in administrative actions, to enforce subpoenas issued by the Board or any Board member, and/or to seek District Court enforcement of Board orders.

(e) The Secretary/Medical Advisor shall apprise the Board of any action initiated at the next Board meeting following filing of the action. The Board, in its discretion, may vote to instruct the Secretary/Medical Advisor to dismiss any action filed if possible under District Court rules and in the best interest of the agency.

(f) At any time the Secretary/Medical Advisor, with the concurrence of the President of the Board, determines that an emergency exists for which the immediate suspension of a license is necessary, the Secretary/Medical Advisor may conduct a hearing pursuant to 75 O.S. Sec. 314 to suspend such license temporarily upon a showing of clear and convincing evidence of unprofessional conduct. The Secretary/Medical Advisory shall comply with all notice requirements of the Administrative Procedures Act and immediately set the matter for full hearing before the Board in compliance with the Administrative Procedures Act and the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act.

(g) The Secretary/Medical Advisor may designate the duties set forth in (c) and (e) of this section to the Executive Director during the absence of the Secretary/Medical Advisor.

[Source: Added at 11 Ok Reg 4731, eff 9-9-94 (emergency); Added at 12 Ok Reg 1209, eff 5-11-95; Amended at 13 Ok Reg 645, eff 11-21-95 (emergency); Amended at 13 Ok Reg 2683, eff 6-27-96]

CHAPTER 3. INDIVIDUAL PROCEEDINGS

Subchapter

1. Purpose and Definitions.....435:3-1-1
3. Investigations and Hearings.....435:3-3-1

[Source: Codified 5-11-95]

SUBCHAPTER 1. PURPOSE AND DEFINITIONS

Section

- 435:3-1-1. Purpose
- 435:3-1-2. Definitions

435:3-1-1. Purpose

The purpose of this Chapter is to set forth the procedures of the Board used in the investigation of and hearings held for complaints and individual proceedings.

[Source: Added at 11 Ok Reg 4159, eff 6-21-94 (emergency); Added at 12 Ok Reg 1215, eff 5-11-95]

435:3-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

“Act” means the Oklahoma Medical Practice Act, 59 O.S.1991, §§ 481, et seq., as amended, or any health profession act over which the Board has regulatory jurisdiction.

“APA” means Article I and/or Article II of the Administrative Procedures Act, 75 O.S.1991, §§ 250, et seq.

“Board” means the Board of Medical Licensure and Supervision.

“Complaint” means a written or oral statement of alleged violation of the Act by a person licensed or certified by the Board and which is filed with the Secretary in anticipation of a citation. This definition is distinct from “citizen complaint,” which refers to a written or oral statement of violation of the Act prior to investigation by the Staff and submission to the Secretary.

“Defendant” means the person against whom an individual proceeding is initiated.

“Executive Director” means the Executive Director of the Board.

“Hearing” means the trial mechanism employed by the Board to provide Due Process to a defendant in an individual proceeding.

“Individual proceeding” means the formal process by which the Board takes administrative action against a person licensed or certified by the Board in accordance with the Act and the APA.

“Secretary” means the Secretary of the Board.

“Staff” means the personnel of the Board.

[Source: Added at 11 Ok Reg 4159, eff 6-21-94 (emergency); Added at 12 Ok Reg 1215, eff 5-11-95]

SUBCHAPTER 3. INVESTIGATIONS AND HEARINGS

Section

- 435:3-3-1. Investigations
- 435:3-3-2. Confidentiality during investigations
- 435:3-3-3. Confidentiality during hearings
- 435:3-3-4. Complaints
- 435:3-3-5. Notices
- 435:3-3-6. Service of notice
- 435:3-3-7. Hearing date
- 435:3-3-8. Response to a complaint
- 435:3-3-9. Discovery
- 435:3-3-10. Motions prior to hearing
- 435:3-3-11. Procedure of hearing
- 435:3-3-12. Rulings upon evidence and objections
- 435:3-3-13. Trial examiner
- 435:3-3-14. Failure to appear
- 435:3-3-15. Sequestration of witnesses
- 435:3-3-16. Subpoenas
- 435:3-3-17. Answer to subpoena
- 435:3-3-18. Hearing records
- 435:3-3-19. Maintenance of hearing records
- 435:3-3-20. Final orders
- 435:3-3-21. Petition for rehearing

435:3-3-1. Investigations

Any person may file a complaint with the Board in regard to any person licensed or certified by the Board. Complaints may be written or oral. The Staff may require complainants to reduce oral complaints to writing. The Staff may inquire of a complainant for any additional useful information related to the complaint. The Staff shall investigate all credible complaints over which the Board would reasonably have jurisdiction. In addition, the Staff may refer complaints to other entities, such as the Oklahoma State Bureau of Investigation, Oklahoma Bureau of Narcotics and Dangerous Drugs, appropriate District Attorney or Oklahoma State Medical Association, for action when the Board lacks jurisdiction. Further, the Staff may report alleged criminal violations to appropriate law enforcement agencies.

[Source: Added at 11 Ok Reg 4159, eff 6-21-94 (emergency); Added at 12 Ok Reg 1215, eff 5-11-95]

435:3-3-2. Confidentiality during investigations

During the conduct of any investigation, the investigative staff shall take all proper and necessary action to ensure the confidentiality of investigative files, in accordance with the Oklahoma Open Records Act, 51 O.S.1991, §§ 24a.1 et seq. In particular, staff shall take all necessary action to ensure patient files obtained by the agency during an investigation shall not be disclosed to the public. The investigative staff shall emend

all copies of patient records used during an investigation to delete, redact, black-out or otherwise render unreadable the name and other identification information of a patient, unless that information is pertinent to the hearing and reasonable efforts have been made by the Staff to secure the cooperation of the patient or the patient's parent or guardian.

[Source: Added at 11 Ok Reg 4159, eff 6-21-94 (emergency); Added at 12 Ok Reg 1215, eff 5-11-95]

435:3-3-3. Confidentiality during hearings

During a hearing before the Board or presentation of a witness before the Trial Examiner, patient records necessary for use in the hearing shall be so marked as to ensure the confidentiality of the patient where disclosure of the patient's identity is not pertinent to the hearing. In addition, a witness who is or was a patient of a physician before the Board may assume a pseudonym to protect the patient's identity. No patient shall be required to identify himself or herself. In the event of a minor patient, a parent or guardian shall be inquired of as to identification of the minor.

[Source: Added at 11 Ok Reg 4159, eff 6-21-94 (emergency); Added at 12 Ok Reg 1215, eff 5-11-95]

435:3-3-4. Complaints

(a) An individual proceeding, whether initiated by the Board or by a citizen complainant shall be initiated by the filing of a sworn complaint with the Secretary of the Board. The complaint shall contain a brief statement setting forth the allegations which are the basis of the complaint and naming the person against whom the complaint is made. The complaint shall set forth all notice and hearing requirements of the APA.

(b) After a complaint has been filed in accordance with (a) of this section, the Secretary of the Board shall review the complaint and may issue a citation notifying the person named in the complaint of said filing and the date and place of the hearing.

(c) The decision whether to issue a citation shall be left to the discretion of the Secretary.

[Source: Added at 11 Ok Reg 4159, eff 6-21-94 (emergency); Added at 12 Ok Reg 1215, eff 5-11-95]

435:3-3-5. Notices

(a) All notices or other papers, motions or documents which require service in an individual proceeding may be served personally or by certified mail to the defendant's last known address filed with the Board.

(b) If the Board is unable to provide service upon the defendant by either means provided in (a) of this section, after the exercise of due diligence, the Board may provide notice by publication in a newspaper for such time as the Secretary of the Board may direct as most likely to give opportunity for notice to the defendant.

[Source: Added at 11 Ok Reg 4159, eff 6-21-94 (emergency); Added at 12 Ok Reg 1215, eff 5-11-95]

435:3-3-6. Service of notice

Service of notice shall be complete upon personal service, upon receipt by the Board of the card showing receipt of certified mail by the addressee, or upon the posting of notice or last publication thereof, as the case may be.

[Source: Added at 11 Ok Reg 4159, eff 6-21-94 (emergency); Added at 12 Ok Reg 1215, eff 5-11-95]

435:3-3-7. Hearing date

(a) Upon the issuance and service of a complaint and citation to a defendant before the Board, the staff of the agency shall assign a tentative hearing date for the matter to be presented to the Board.

(b) At the time of the issuance of the complaint and citation, a scheduling order shall be mailed to the defendant, which shall state the closing date for the exchange of witness and exhibit lists, discovery cut-off, the cut-off date for the filing of dispositive motions, a pretrial conference set at least fourteen (14) days prior to the hearing and other matters necessary to be scheduled which may arise from time to time.

(c) Written motions for any continuances or extensions of time shall state the time desired and the reasons for the request. All such motions shall be filed at the offices of the Board. The Secretary of the Board, or the Trial Examiner at the pre-trial conference, may receive and rule on motions for continuance filed prior to seven (7) days before the hearing date. If the continuance is denied, the party may renew the request and move for a continuance at the hearing.

[Source: Added at 11 Ok Reg 4159, eff 6-21-94 (emergency); Added at 12 Ok Reg 1215, eff 5-11-95]

435:3-3-8. Response to a complaint

(a) The defendant shall file a written answer under oath with the Secretary within 20 days after the service of the citation. If said answer is not filed, the defendant shall be considered in default. At the hearing of the complaint, the Board may accept the allegations set forth in the complaint as true. Further, the Board may then take action against the defendant based upon the complaint, which may include any sanction authorized by law, including revocation.

(b) The Secretary may extend the time within which an answer must be filed.

[Source: Added at 11 Ok Reg 4159, eff 6-21-94 (emergency); Added at 12 Ok Reg 1215, eff 5-11-95]

435:3-3-9. Discovery

When time permits prior to a hearing, parties to the hearing shall be allowed to use discovery available in a civil action in the District Courts of Oklahoma. The failure of a party to have sufficient time to exercise any discovery mechanism on account of a lack of time shall not of itself constitute good cause for the granting of a continuance of a hearing.

[Source: Added at 11 Ok Reg 4159, eff 6-21-94 (emergency); Added at 12 Ok Reg 1215, eff 5-11-95]

435:3-3-10. Motions prior to hearing

(a) Motions in regard to any matter as set forth on 435:3-3-13 shall be filed with the Trial Examiner at the offices of the Board. The Trial Examiner is authorized to schedule oral argument on such motions or may accept written argument only. The Order of the Trial Examiner shall be in writing and shall be appealable to the Board prior to the hearing. The Trial Examiner shall not have authority to dismiss a case or limit what matters are heard by the Board.

(b) Motions shall be heard and/or ruled upon by the Trial Examiner at the scheduled pretrial conference.

[Source: Added at 11 Ok Reg 4159, eff 6-21-94 (emergency); Added at 12 Ok Reg 1215, eff 5-11-95]

435:3-3-11. Procedure of hearing

(a) Immediately prior to the calling of the first case at a meeting of the Board during which hearings may be held, the president of the Board or designee may conduct a docket call, in which cases to be heard by the Board shall be scheduled. Scheduling may take into consideration factors such as anticipated length of a hearing, whether a matter is contested or uncontested, and, if necessary, special requirements of the parties or witnesses.

(b) The hearing shall be conducted in an orderly manner and shall be presided over by the President of the Board, or the Vice-President in the absence of the President. In the event of the absence of both the President and the Vice-President, the President shall designate a member of the Board to preside over the hearing. The burden of proof shall be upon the agency to prove the allegations contained in the complaint by clear and convincing evidence. The rules of evidence used during the hearing shall be those specified by the Oklahoma Administrative Procedures Act.

[Source: Added at 11 Ok Reg 4159, eff 6-21-94 (emergency); Added at 12 Ok Reg 1215, eff 5-11-95; Amended at 12 Ok Reg 3466, eff 6-26-95 (emergency); Amended at 13 Ok Reg 647, eff 11-21-95 (emergency); Amended at 13 Ok Reg 2207, eff 6-26-96; Amended at 13 Ok Reg 2685, eff 6-27-96; Amended at 15 Ok Reg 2018; eff 5-26-98]

435:3-3-12. Board advisor

The Board may utilize a Board Advisor in the course of a hearing/individual proceeding to perform any of the following duties:

- (1) To advise the Board on issues of law and rules of proceedings;
- (2) To participate with the Board in the questioning of witnesses/applicants;
- (3) To advise the President on the admissibility of evidence;
- (4) To advise the President on motions or objections arising in the course of the hearing/individual proceeding; and
- (5) To accompany the Board into Executive Session, provide assistance as legal advisor and take minutes.

[Source: Added at 11 Ok Reg 4159, eff 6-21-94 (emergency); Added at 12 Ok Reg 1215, eff 5-11-95; Amended at 21 Ok Reg, eff 5-11-04 (emergency); Amended at 22 Ok Reg 945, eff 5-12-05]

435:3-3-13. Trial examiner

(a) The Board or the Board Secretary may direct that the Board utilize a Trial Examiner to hear matters specified by the Secretary or as authorized by this Chapter. Generally, where the Trial Examiner is requested, the duties of the Trial Examiner in an individual proceeding shall be:

- (1) to hear and rule upon pretrial discovery disputes.
- (2) to hear and rule on Motions in Limine.
- (3) to review Motions to Dismiss in order to advise the Board on questions of law therein.
- (4) to hear and rule on Motions for Continuance of a hearing (a continuance which is granted by the Trial Examiner must be ratified by the Secretary of the Board).
- (5) to hear and rule on other preliminary motions.
- (6) to hear and rule on motions to have a Board Member recused from a hearing.

(b) The Board or the Secretary may assign the Trial Examiner to perform any of the following duties:

- (1) to mark, identify and admit or deny exhibits.
- (2) to hear non-physician prosecution witnesses.
- (3) to hear non-physician defense witnesses.
- (4) to hear prosecution/defense corroborating witnesses.
- (5) to hear character witnesses.
- (6) to hear cumulative witnesses.
- (7) to hear peripheral witnesses.
- (8) to receive offers of proof.

(9) to prepare a written report to Board members and counsel summarizing all proceedings, rulings, testimony, and exhibits received. The Trial Examiner shall allow counsel time to file any written objections or exceptions to the report.

(c) The Board members shall read the Trial Examiner's report and any objections that were filed.

(d) In the event the Trial Examiner assumes the additional duties of (b) in this section, the format for the hearing before the Board shall be as follows:

- (1) The Board receives brief orientations from the Trial Examiner before each case is presented.
- (2) The Board hears only physician witnesses or expert witnesses that the Trial Examiner has permitted because of the nature of the testimony.
- (3) The Board hears rebuttal witnesses, if any.
- (4) The Board hears opening and closing arguments.

[Source: Added at 11 Ok Reg 4159, eff 6-21-94 (emergency); Added at 12 Ok Reg 1215, eff 5-11-95]

435:3-3-14. Failure to appear

Any defendant who fails to appear as directed, after first having received proper notice, shall be deemed by the Board to have waived his or her right to present a defense to the charges alleged in the complaint, and the Board may deem the allegation of the complaint and citation to be true and correct as alleged. Thereupon, the Board may vote to take disciplinary action upon the allegations of the complaint and citation, as appropriate for the nature of the allegations.

[Source: Added at 11 Ok Reg 4159, eff 6-21-94 (emergency); Added at 12 Ok Reg 1215, 5-11-95]

435:3-3-15. Sequestration of witnesses

The Board recognizes the difficulty faced by certain witnesses called to testify publicly in disciplinary actions in which a physician or other person regulated by the Board is charged with sexual misconduct or other cases of a particularly sensitive nature to persons of reasonable prudence. The Board authorizes the Secretary to make determinations, whether upon his own initiative, request of the staff, the request of a witness, or otherwise, to allow a witness to testify outside public view. To this end, the Secretary may arrange to have a witness testify in another room of the Board's offices for viewing by the Board via video equipment, or by video deposition, or by written deposition. The witness shall remain subject to cross examination and, where feasible, to questions from the Board.

[Source: Added at 11 Ok Reg 4159, eff 6-21-94 (emergency); Added at 12 Ok Reg 1215, eff 5-11-95]

435:3-3-16. Subpoenas

Subpoenas to compel the attendance of witnesses, for the furnishing of information required by the Board, and/or for the production of evidence or records of any kind may be issued by the Secretary, a Board member, or the Trial Examiner. Subpoenas shall be served, and a return made, in any manner prescribed by general civil law.

[Source: Added at 11 Ok Reg 4159, eff 6-21-94 (emergency); Added at 12 Ok Reg 1215, eff 5-11-95]

435:3-3-17. Answer to subpoena

Upon the failure of any person to obey a subpoena, upon the refusal of any witness to be sworn or make an affirmation or to answer a question put to her/him in the course of a hearing, the Secretary may institute appropriate judicial proceedings under the laws of the State for an order to compel compliance with the subpoena or the giving of testimony. The hearing shall proceed, so far as it is possible but the Board, in its discretion, at any time may continue the proceedings for such time as may be necessary to secure a final ruling in the compliance proceeding.

[Source: Added at 11 Ok Reg 4159, eff 6-21-94 (emergency); Added at 12 Ok Reg 1215, eff 5-11-95]

435:3-3-18. Hearing records

(a) A record of the hearing, by means of tape recording will be made of all hearings conducted by the Board. The record of the proceeding shall not be transcribed except upon written application by the defendant and a deposit sufficient in the amount to pay for having the record transcribed. The Staff shall then make appropriate arrangements with a certified court reporter to transcribe the hearing from tape.

(b) A defendant may, at his or her expense, arrange for a record of the hearing to be made by a court reporter.

[Source: Added at 11 Ok Reg 4159, eff 6-21-94 (emergency); Added at 12 Ok Reg 1215, eff 5-11-95]

435:3-3-19. Maintenance of hearing records

The record of the hearing and the file containing the pleadings will be maintained in a place designated by the Secretary of the Board. The tape recording of the proceedings shall be maintained in accordance with the Oklahoma Archives and Records Act and the Oklahoma Open Records Act.

[Source: Added at 11 Ok Reg 4159, eff 6-21-94 (emergency); Added at 12 Ok Reg 1215, eff 5-11-95]

435:3-3-20. Final orders

All final orders in individual proceedings shall be in writing. The final order shall include Findings of Fact and Conclusions of Law, separately stated. A copy of the final order shall be mailed to the defendant and to his or her attorney of record.

[Source: Added at 11 Ok Reg 4159, eff 6-21-94 (emergency); Added at 12 Ok Reg 1215, eff 5-11-95]

435:3-3-21. Petition for rehearing

(a) A petition for rehearing is not required before an appeal may be perfected in accordance with 59 O.S.1971, Section 513. A petition for rehearing, reopening or reconsideration of a final order may be filed with the Secretary of the Board within ten (10) days from the entry of the order. It must be signed by the party or his/her attorney or representative and must set forth with particularity the statutory grounds upon which

it is based. However, a petition for rehearing based upon fraud by any party or procurement of the order by perjured testimony or fictitious evidence may be filed at any time.

(b) The Board shall not hear an appeal to a decision more than one time and shall limit the reconsideration of its decision on appeal to the findings of fact and imposition of terms, sanctions or other direction as set out in the Board Order.

[Source: Added at 11 Ok Reg 4159, eff 6-21-94 (emergency); Added at 12 Ok Reg 1215, eff 5-11-95; Amended at 12 Ok Reg 1219, eff 5-15-95]

CHAPTER 5. DISCIPLINARY ACTIONS

Section

435:5-1-1. Purpose

435:5-1-2. Definitions

435:5-1-3. Authority of Board

435:5-1-4. Determination of penalties

435:5-1-4.1. Administrative fines

435:5-1-5. Letters of concern

435:5-1-5.1. Voluntary submittal to jurisdiction

435:5-1-5.2. Suspension/revocation upon conviction of a felony

435:5-1-6. Reinstatement

435:5-1-6.1. Reinstatement requirements

435:5-1-7. Failure to comply with a Board order

435:5-1-8. Physicians on probation

435:5-1-1. Purpose

The purpose of this Chapter is to set forth procedures and authority of the Board in regard to action the Board may take in and for disciplinary actions taken by administrative procedures against persons licensed or certified by the Board.

[Source: Added at 11 Ok Reg 4531, eff 7-27-94 (emergency); Added at 12 Ok Reg 1221, eff 5-11-95]

435:5-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

“**Act**” means the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S. §§ 480 et seq.

“**APA**” means either or both Article I and Article II, as applicable of the Administrative Procedures Act, 75 O.S.1991, §§ 250 et seq., as amended.

“**Board**” means the Oklahoma Board of Medical Licensure and Supervision.

“**Secretary**” means the Secretary of the Board.

[Source: Added at 11 Ok Reg 4531, eff 7-27-94 (emergency); Added at 12 Ok Reg 1221, eff 5-11-95]

435:5-1-3. Authority of Board

The Board is authorized by statute to take disciplinary action against persons

licensed or certified by the Board. Action taken by the Board shall be done pursuant to the APA.

[Source: Added at 11 Ok Reg 4531, eff 7-27-94 (emergency); Added at 12 Ok Reg 1221, eff 5-11-95]

435:5-1-4. Determination of penalties

(a) In determining the severity of any penalty assessed a person licensed or certified by the Board, the Board shall take into account, among other things, actual harm to the public, potential harm to the public, acceptance by the defendant for responsibility in the disciplinary action, remorse by the defendant, or action taken by the defendant to make amend for wrongful conduct, if appropriate.

(b) In general, a more severe or harmful violation of an act regulated by the Board will result in a more severe penalty to be imposed by the Board. A less severe or harmful violation of an act regulated by the Board will result in a less severe penalty imposed by the Board. The Board will review all possible penalties for the type of violation of which the defendant was convicted by the Board in making its determination of the penalty imposed.

[Source: Added at 11 Ok Reg 4531, eff 7-27-94 (emergency); Added at 12 Ok Reg 1221, eff 5-11-95]

435:5-1-4.1. Administrative fines

The following administrative fines shall only be assessed after formal hearing and a determination of guilt:

(1) \$5,000 per day for practicing after revocation, suspension, surrender or failure to renew a license, pursuant to 59 O.S. §491B.

(2) Up to \$5,000 per violation of unprofessional conduct, pursuant to 59 O.S. §509.1A(9).

[Source: Added at 22 Ok Reg 2095, eff 6-25-05]

435:5-1-5. Letters of concern

The Secretary is hereby authorized, in the exercise of sound discretion, to issue a letter of concern to a physician whose conduct does not warrant formal disciplinary action by the Board, but whose action does warrant a letter of concern to apprise the physician of a potential for further action by the Board. Letters of concern shall remain in the confidential investigative file of the physician to whom the letter is issued.

[Source: Added at 11 Ok Reg 4531, eff 7-27-94 (emergency); Added at 12 Ok Reg 1221, eff 5-11-95]

435:5-1-5.1. Voluntary submittal to jurisdiction

(a) The Board may accept a Voluntary Submittal to Jurisdiction entered into by staff and defendant.

(b) Proffer of a Voluntary Submittal to Jurisdiction entered into by staff and defendant shall be the responsibility of the Secretary of the Board or Executive Director in his/her absence.

[Source: Added at 13 Ok Reg 1567, eff 8-21-95 (emergency); Added at 13 Ok Reg 1695, eff 5-25-96]

435:5-1-5.2. Suspension/revocation upon conviction of a felony

(a) The Board may suspend the license of a person who has been convicted of a felony.

(b) The Board shall revoke the license of a person licensed by the Board who has a final felony conviction.

(c) The Board shall restore the license if the person's conviction is overturned on final appeal.

[Source: Added at 22 Ok Reg 945, effective 5-12-05]

435:5-1-6. Reinstatement

(a) In any action by the Board in which a person licensed or certified by the Board has been suspended or revoked by the Board, or surrendered in lieu of prosecution, the Board may at any time, upon motion of any member of the Board reconsider such suspension or revocation if given the right to reapply.

(b) In addition, the person whose license or certificate has been suspended, revoked or surrendered with the right to reapply may petition the Board for reinstatement in accordance with applicable law.

(c) In any case in which a person whose license or certificate has been suspended or revoked is considered by the Board for reinstatement, it shall be the burden of that person to show compliance with all terms and conditions imposed by the Board in the disciplinary action. The Board may deny reinstatement to any such person who does not satisfy the Board of compliance with any Board requirement or condition imposed by the Board in disciplinary action or may approve reinstatement without restriction or may approve reinstatement with terms of probation or restrictions as deemed necessary to protect the health, safety and well-being of the public.

(d) Upon the completion of any term of suspension imposed by the Board, the person whose license or certificate was suspended shall bear the burden to show compliance with all requirements and conditions imposed by the Board prior to reinstatement by the Board.

(e) An application for reinstatement shall be filed with the Board in writing and shall set forth action taken by the applicant to comply with conditions and requirements imposed by the Board, including all documents in support thereof. Such application or motion shall be reviewed by the Secretary prior to being scheduled for action by the Board at a meeting of the Board. If the Secretary determines the applicant has met the requirements and conditions imposed by the Board, the matter shall be scheduled for Board action. If the Secretary determines the applicant has not complied with requirements and conditions imposed by the Board, the Secretary shall advise the applicant of the noncompliance in writing and the matter shall not be scheduled for Board action. In the event an applicant disagrees with the determination of the Secretary, the applicant may move in writing for the original application to be reviewed by the Board, upon payment of the appropriate fee.

[Source: Added at 11 Ok Reg 4531, eff 7-27-94 (emergency); Added at 12 Ok Reg 1221, eff 5-11-95; Amended at 18 Ok Reg 3555, eff 8-08-01 (emergency); Amended at 19 Ok Reg 1194, eff 5-13-02; Amended at 22 Ok Reg 945, eff 5-12-05]

435:5-1-6.1. Reinstatement requirements

An applicant for reinstatement after suspension, revocation or surrender in lieu of prosecution pursuant to 59 O.S. § 503 shall meet all application requirements in effect at the time reinstatement is requested, be of good moral character and have reimbursed the Board for taxed costs or worked out a repayment plan satisfactory to the Board. In addition, the Board may require the applicant to meet the continuing medical education (C.M.E.) requirements.

[Source: Added at 12 Ok Reg 3656, eff 5-9-95 (emergency); Added at 13 Ok Reg 1696, eff 5-25-96; Amended at 19 Ok Reg 2777, eff 6-24-02 (emergency); Amended at 20 Ok Reg 969, eff 5-21-03; Amended at 22 Ok Reg 945, eff 5-12-05]

435:5-1-7. Failure to comply with a Board order

In the event the Secretary determines that a person has not complied with an order of the Board, the Secretary may initiate additional disciplinary action against that person and may seek to have the Board impose additional penalties for failure to comply with a Board order.

[Source: Added at 11 Ok Reg 4531, eff 7-27-94 (emergency); Added at 12 Ok Reg 1221, eff 5-11-95]

435:5-1-8. Physicians on probation

It is the determination by the Board that allied health professionals that require surveillance of a licensed physician should not be supervised by physicians on probation.

[Source: Added at 13 Ok Reg 1173, eff 2-26-96 (emergency); Added at 13 Ok Reg 2687, eff 6-27-96]

CHAPTER 10. PHYSICIANS AND SURGEONS

Subchapter	Section
1. General Provisions	435:10-1-1
3. Licensure of Physicians and Surgeons (Revoked)	435:10-3-1
4. Application and Examination Procedures for Licensure as Physician and Surgeon	435:10-4-1
5. Approval of Hospitals and Programs for Post-Graduate Training	435:10-5-1
7. Regulation of Physician and Surgeon Practice	435:10-7-1
9. Practice as Supervised Medical Doctor (Revoked)	435:10-9-1
11. Temporary and Special Licensure	435:10-11-1
15. Continuing Medical Education	435:10-15-1
17. Medical Micropigmentation	435:10-17-1

[Authority: Title 59 O.S., Section 489]

[Source: Codified 12-30-91]

SUBCHAPTER 1. GENERAL PROVISIONS

Section
435:10-1-1. Purpose
435:10-1-2. Interpretation of rules and regulations [REVOKED]
435:10-1-3. Limited liability company
435:10-1-4. Definitions

435:10-1-1. Purpose

The rules in this Chapter describe application processes for licensure by examination and endorsement. It includes special provisions for foreign medical graduates. This Chapter also describes rules for the approval of hospitals and programs for post-

graduate training and other regulations of the practice of physicians and surgeons.

[Source: Amended at 11 Ok Reg 4535, eff 7-27-94 (emergency); Amended at 12 Ok Reg 1223, eff 5-11-95]

435:10-1-2. Interpretation of rules and regulations [Revoked]

[Source: Revoked at 11 Ok Reg 4535, eff 7-27-94 (emergency); Revoked at 12 Ok Reg 1223, eff 5-11-95]

435:10-1-3. Limited liability company

Based on the enactment of 18 O.S., Supp. 1992, Section 2000 et seq. (SB456, 1992 Oklahoma Legislature), the Oklahoma State Board of Medical Licensure and Supervision recognizes that a lawfully formed and organized limited liability company, domestic limited liability company, or foreign limited liability company is a lawful business organization wherein an Oklahoma licensed physician may practice medicine and surgery.

[Source: Added at 10 Ok Reg 2455, eff 6-11-93]

435:10-1-4. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

“Act” means the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S. §§ 480 et seq.

“APA” means either or both Article I and Article II, as applicable of the Administrative Procedures Act, 75 O.S.1991, §§ 250 et seq., as amended.

“Applicant” means a person who applies for licensure from the Board.

“Board” means the Oklahoma Board of Medical Licensure and Supervision.

“Foreign applicant” means an applicant who is a graduate of a foreign medical school.

“Foreign medical school” means a medical school located outside of the United States.

“Patient” means the patient and/or patient surrogate.

“Physician/patient relationship” means a relationship established when a physician agrees by direct or indirect contact with a patient to diagnose or treat any condition, illness or disability presented by a patient to that physician, whether or not such a presenting complaint is considered a disease by the general medical community. The physician/patient relationship shall include a medically appropriate, timely-scheduled, actual face-to-face encounter with the patient, subject to any supervisory responsibilities established elsewhere in these rules. The act of scheduling an appointment, whether by a physician or by a physician’s agent, for a future evaluation will not in and of itself be considered to establish a physician/patient relationship.

“Secretary” means the Secretary of the Board.

“Supervision and Control” means the physical presence of the supervising physician in the office or operating suite before, during and after the treatment or procedure and includes diagnosis, authorization and evaluation of the treatment or procedure with the physician/patient relationship remaining intact.

“Surrogate” means individuals closely involved in patients’ medical decision-making and care and include:

- (A) spouses or partners;
- (B) parents;

- (C) guardian; and
- (D) other individuals involved in the care of and/or decision-making for the patient.

[Source: Added at 11 Ok Reg 4535, eff 7-27-94 (emergency); Added at 12 Ok Reg 1223, eff 5-11-95; Amended at 24 Ok Reg 2246, eff 6-25-07; Amended at 27 Ok Reg 856, eff 4-25-10]

SUBCHAPTER 3. LICENSURE OF PHYSICIANS AND SURGEONS

Section

435:10-3-1. General licensing requirements [REVOKED]

435:10-3-2. Graduates of American medical schools [REVOKED]

435:10-3-3. Graduates of foreign medical schools [REVOKED]

435:10-3-4. Licensure by endorsement [REVOKED]

435:10-3-5. Licensure by examination [REVOKED]

435:10-3-6. Premedical education; medical education and clinical competency [REVOKED]

435:10-3-1. General licensing requirements [Revoked]

[Source: Revoked at 11 Ok Reg 4535, eff 7-27-94 (emergency); Revoked at 12 Ok Reg 1223, eff 5-11-95]

435:10-3-2. Graduates of American medical schools [Revoked]

[Source: Revoked at 11 Ok Reg 4535, eff 7-27-94 (emergency); Revoked at 12 Ok Reg 1223, eff 5-11-95]

435:10-3-3. Graduates of foreign medical schools [Revoked]

[Source: Amended at 11 Ok Reg 1557, eff 4-4-94 (emergency); Amended at 11 Ok Reg 1867, eff 5-12-94; Revoked at 11 Ok Reg 4535, eff 7-27-94 (emergency); Revoked at 12 Ok Reg 1223, eff 5-11-95]

435:10-3-4. Licensure by endorsement [Revoked]

[Source: Amended at 11 Ok Reg 1867, eff 5-12-94; Revoked at 11 Ok Reg 4535, eff 7-27-94 (emergency); Revoked at 12 Ok Reg 1223, eff 5-11-95]

435:10-3-5. Licensure by examination [Revoked]

[Source: Amended at 11 Ok Reg 1867, eff 5-12-94; Revoked at 11 Ok Reg 4535, eff 7-27-94 (emergency); Revoked at 12 Ok Reg 1223, eff 5-11-95]

435:10-3-6. Premedical education, medical education and clinical competency [Revoked]

[Source: Revoked at 11 Ok Reg 4535, eff 7-27-94 (emergency); Revoked at 12 Ok Reg 1223, eff 5-11-95]

SUBCHAPTER 4. APPLICATION AND EXAMINATION PROCEDURES FOR LICENSURE AS PHYSICIAN AND SURGEON

Section

- 435:10-4-1. General licensure provisions
- 435:10-4-2. Board jurisdiction
- 435:10-4-3. Application forms
- 435:10-4-4. Application procedure
- 435:10-4-5. Additional requirements for foreign applicants
- 435:10-4-6. Medical licensure examination
- 435:10-4-7. Licensure by endorsement
- 435:10-4-8. Endorsement of certified applicants
- 435:10-4-9. Board review of applications
- 435:10-4-10. Personal appearance by an applicant
- 435:10-4-11. Written agreement

435:10-4-1. General licensure provisions

(a) No person shall perform any act prohibited by the Act for any fee or other compensation, or hold himself or herself out as a physician and surgeon under the Act, unless first licensed by the Board to do so. The Board directs staff to undertake affirmative action to seek the prosecution of any person suspected by the staff to be in criminal violation of any provision of the Act.

(b) No person shall be licensed by the Board unless and until that person first fully complies with all licensure provisions of the Act and this Subchapter and has satisfied the Board of the ability of that person to practice medicine and surgery with reasonable skill and safety.

(c) The Board shall not engage in any application process with any agent or representative of any applicant except as is specifically approved by the Board at a meeting of the Board and majority vote. The Board shall entertain a request for authority for an agent or representative to represent an applicant only upon written motion by the applicant and after a personal interview with the applicant by the Secretary of the Board or the Board en banc. It is the purpose of the Board in this regard to prevent any subterfuge in the application process and so requires any person who wishes to employ an agent or representative to meet personally with the Board or Secretary.

(d) A license issued by the Board shall be signed by the Secretary and attested by the seal of the Board.

[Source: Added at 11 Ok Reg 4535, eff 7-27-94 (emergency); Added at 12 Ok Reg 1223, eff 5-11-95; Amended at 12 Ok Reg 3468, eff 6-26-95 (emergency); Amended at 13 Ok Reg 1697, eff 5-25-96; Amended at 16 Ok Reg 1210, eff 5-14-99]

435:10-4-2. Board jurisdiction

(a) The jurisdiction of the Board extends, for the purposes of 59 O.S. § 492, as amended by H.B. No. 2123, to allopathic medical practices. It is the duty of the Board to enforce licensure requirements for persons who perform any act contemplated by 59 O.S. § 492 (C) or any other provision of the Act. The Board construes licensure re-

quirements of the Act to extend to residents and interns in any medical post-graduate training program in accordance with 59 O.S. § 492 (D)(1). Interns shall obtain a special license to practice pursuant to Subchapter 11 of this Chapter. In special circumstances, residents beyond the first year of post-graduate training may extend a special license for continuance of training, renewable annually.

(b) The Board construes “allopathic” to refer to any medical or surgical procedure, drug or act reasonably and/or normally performed or undertaken by an allopathic physician consistent with the education and training of an allopathic physician.

[Source: Added at 11 Ok Reg 4535, eff 7-27-94 (emergency); Added at 12 Ok Reg 1223, eff 5-11-95]

435:10-4-3. Application forms

(a) The Board directs staff to prepare and create new forms, or modify existing forms, to be used in the application process for licensure by examination and endorsement. Application forms shall require applicants to submit all information required by the Act.

(b) Application forms may be obtained upon written request from the Board office.

[Source: Added at 11 Ok Reg 4535, eff 7-27-94 (emergency); Added at 12 Ok Reg 1223, eff 5-11-95]

435:10-4-4. Application procedure

(a) An applicant for licensure by the Board shall provide the Board with all information required pursuant to 59 O.S. § 493.1 on forms created therefore by staff. In addition, an applicant shall provide either original documents required thereby or notarized or certified duplicates. Academic records may be provided by submission of certified transcripts from all applicable schools.

(b) The applicant shall be forthright and open in the provision of information to the Board in the application process. No applicant shall be awarded a license who does not provide the Board with complete, open and honest responses to all requests for information.

(c) Any Board member may request an applicant to provide any additional information the Board member feels is necessary or useful to determine the applicant’s ability to practice medicine and surgery in the application process which is raised by any response by an applicant to any question or request for information on the application form.

(d) The applicant shall present proof of graduation from an approved medical school and possess a valid degree of Doctor of Medicine or its equivalent, as applicable. The Board will accept as proof the original diploma conferred or a notarized copy thereof, but may request additional written information or verification from the Dean or other authority from the applicant’s medical school.

(e) The applicant shall provide written verification of successful completion of at least twelve (12) months of progressive post-graduate medical training in a program approved by The American Council on Graduate Medical Education (ACGME), The Royal College of Physicians and Surgeons of Canada, The College of Family Physicians of Canada, The Royal College of Surgeons of Edinburgh, The Royal College of Surgeons of England, The Royal College of Physicians and Surgeons of Glasgow, or The Royal College of Surgeons in Ireland. The Board requires this training to be obtained in the same medical specialty. The Board will not accept combinations of months from multiple specialties as evidence of one (1) year of acceptable training for licensure; except that the Board will accept transitional residencies. It shall be the burden of the applicant to provide information as to the progressive nature of the post-graduate training. The

Board construes progressive training to be that which steadily increases the student's duties and responsibilities during the training and which prepares the student for increasingly difficult medical challenges. If Fellowships are used to meet post-graduate education requirements, the Fellowships must be approved by the American Council on Graduate Medical Education (ACGME) and be conducted in an ACGME approved facility. Clerkships shall not constitute necessary medical post-graduate training required for licensure.

(f) The applicant shall be candid in regard to the provision of information related to any academic misconduct or disciplinary action.

(g) The applicant shall be provided a copy of the Act and Board rules on unprofessional conduct. The applicant shall review such rules and state candidly and honestly whether the applicant has committed any act which would constitute grounds for disciplinary action by the Board under Act and rules of the Board.

(h) The applicant shall take and complete the jurisprudence examination prepared by the staff. Seventy-five percent (75%) or above shall be a passing grade. The examination shall cover the Act and any other significant statute, rule or material related to the practice of medicine and surgery in this state. The applicant shall be provided a copy of all statutes, rules or other material from which the examination was created and may review such material while taking the jurisprudence examination. An applicant who fails the jurisprudence examination three (3) times shall be required to meet with the Secretary in order to devise a study plan prior to taking the jurisprudence examination again. The Board has determined that the jurisprudence examination is an integral part of the application process. A passing score on the jurisprudence examination is a requirement for licensure.

(i) The applicant shall pay all necessary fees related to the application.

(j) It is the responsibility of the applicant to verify the applicant's identity and the validity of any documents or information submitted to the Board in the licensure process.

(k) The Board must be in receipt of correspondence from the American Medical Association (AMA) and Federation of State Medical Boards (Federation) prior to issuance of any medical license. The Board may also contact other sources as necessary. Should information be found through correspondence with the AMA, Federation, or other sources that was previously unknown to the Board, the application will be held until such time as the Secretary of the Board is satisfied that the information has been validated by the Staff.

(l) An applicant may withdraw an application for licensure at any time prior to the submission of the application for consideration by members of the Board. No application may be withdrawn by an applicant after it has been submitted to members of the Board.

(m) An applicant for reinstatement for failure to renew pursuant to 59 O.S. s.s. 495d shall meet all application requirements in effect at the time reinstatement is requested, be of good moral character and shall provide proof that continuing education requirements have been met.

[Source: Added at 11 Ok Reg 4535, eff 7-27-94 (emergency); Added at 12 Ok Reg 767, eff 1-5-95 (emergency); Added at 12 Ok Reg 1223, eff 5-11-95; Amended at 12 Ok Reg 1235, eff 5-15-95; Amended at 15 Ok Reg 2018; eff 5-26-98; Amended at 19 Ok Reg, eff 6-24-02 (emergency); Amended at 19 Ok Reg 2993, eff 8-19-02 (emergency); Amended at 20 Ok Reg 969, eff 5-21-03; Amended at 22 Ok Reg 946, eff 5-12-05]

435:10-4-5. Additional requirements for foreign applicants

(a) It is the intent of the Board to provide graduates of foreign medical schools equal opportunity in the licensure process. All foreign applicants shall meet the requirements of 435:10-4-4. Additional requirements set forth in this Section are used solely for the purpose of ensuring the validity of the foreign applicant's fitness to practice and ability to work in the United States.

(b) Graduates of foreign medical schools whose documents are not printed in the English language shall provide all original documents in the manner of 435:10-4-4. In addition, foreign graduates shall identify a credible translator of applicant's documents. United States Consulates and formal educational foreign language programs from an institution accredited by the North Central Association of Colleges and Schools are approved to provide translations to the Board. An applicant may request to use another translator. Such a request shall be made in writing and include the proposed translator's name, address and qualifications to support the approval of the request. Upon approval by the Board of the proposed translator, all documents of the applicant shall be translated into English. Both the applicant and the translator shall attest to the accuracy of the translation.

(c) Effective January 1, 2004, any applicant that graduated from a foreign medical school after July 1, 2003 and completed clerkships in the United States, those clerkships must have been done in hospitals, schools or facilities that are accredited by the appropriate accrediting body such as the Accreditation Council for Graduate Medical Education. The Board may direct staff to contact an applicant's medical school to obtain any necessary information related to the school or the applicant. In the event the Board is unable to verify information related to an applicant or the applicant's medical school, the Board may in its discretion reject the applicant's application or require the applicant to score ten (10) percentage points higher on a medical licensure examination than is otherwise required.

(d) Graduates of foreign medical schools must submit a tape-recorded reading of a written selection created by the Board and evaluated by the Secretary as to the ability of the applicant to communicate in the English language or take an oral examination as determined by the Board.

(e) An applicant from a foreign medical school shall provide the Board with proof of successful completion of twenty-four (24) months of progressive post-graduate medical training, obtained in the same medical specialty, from a program approved by:

- (1) The American Council on Graduate Medical Education (ACGME);
- (2) The Royal College of Physicians and Surgeons of Canada;
- (3) The College of Family Physicians of Canada;
- (4) The Royal College of Surgeons of Edinburgh;
- (5) The Royal College of Surgeons of England;
- (6) The Royal College of Physicians and Surgeons of Glasgow; or
- (7) The Royal College of Surgeons in Ireland.

(f) A foreign applicant shall provide the Board with written proof of the applicant's ability to work in the United States as authorized by the United States Immigration and Naturalization Service.

(g) The Board requires original source verification of Educational Commission for Foreign Medical Graduates (ECFMG) Certification. The Board shall waive this requirement for applicants ineligible to obtain ECFMG Certification, such as Fifth Pathway graduates and graduates from Canadian Medical Schools.

[Source: Added at 11 Ok Reg 4535, eff 7-27-94 (emergency); Added at 12 Ok Reg 1223, eff 5-11-95;

Amended at 12 Ok Reg 2581, eff 6-26-95; Amended at 13 Ok Reg 1569, eff 8-21-95 (emergency); Amended at 13 Ok Reg 1699, eff 5-25-96; Amended at 19 Ok Reg 2993, eff 8-19-02 (emergency); Amended at 20 Ok Reg 969, eff 5-21-03; Amended at 22 Ok Reg 946, eff 5-12-05; Amended at 28 Ok Reg 1748, eff 6-25-11]

435:10-4-6. Medical licensure examination

(a) Upon submission and approval of a completed application for licensure by examination, and the payment of all fees, an applicant may sit for an examination approved by the Board. The Board has adopted the USMLE as its licensure examination. The passing score for the licensure examination is set at seventy-five percent (75%).

(b) In order to sit for the licensure examination, the applicant shall provide the Board with all information required by 59 O.S. § 494.1 on a form created or approved by the Board.

(c) Submission of an application shall not guarantee an applicant the ability to sit for the licensure examination. No person shall sit for licensure examination until approved to do so by the Board.

(d) The Board recognizes as acceptable for licensure the USMLE, NBME, FLEX and LMCC examinations. However, the Board will not accept test scores or combined FLEX scores from multiple sittings of the FLEX. In addition, the Board will accept the following combinations of those examinations:

- (1) NBME part I or USMLE step 1, plus NBME part II or USMLE step 2, plus NBME part III or USMLE step 3;
- (2) FLEX component 1 plus USMLE step 3; or
- (3) NBME part I or USMLE step 1, plus NBME part II or USMLE step 2, plus FLEX component 2.

(e) The factoring of scores or combination of scores taken from separate examinations is acceptable only as set forth in (d)(1) through (d)(3) of this Section.

(f) All steps of the licensure examination must be passed within ten (10) years unless otherwise prohibited by applicable law.

(g) The following applies to all applicants regarding examination failures unless otherwise prohibited by applicable law:

(1) Any applicant who fails any part of a licensing examination three times will not be eligible for a license. A score of incomplete shall be considered a failing score. The USMLE Step2-Clinical Knowledge and Step2-Clinical Skills shall be considered as separate steps.

(2) If a combination of NBME, FLEX and/or USMLE is utilized, any applicant who has failed more than six (6) examinations will not be eligible for a license.

(3) If an applicant has achieved certification by an American Board of Medical Specialties (ABMS) Board, an exception to 435:10-4-6 (g)(1) and (2) may be granted by a vote of the Board.

(h) As with the initial application, the Board may make additional inquiry of the applicant to provide additional information as necessary.

[Source: Added at 11 Ok Reg 4535, eff 7-27-94 (emergency); Added at 12 Ok Reg 1223, eff 5-11-95; Amended at 12 Ok Reg 2581, eff 6-26-95; Amended at 13 Ok Reg 1571, eff 8-21-95 (emergency); Amended at 13 Ok Reg 1699, eff 5-25-96; Amended at 15 Ok Reg 2739, eff 6-26-98; Amended at 16 Ok Reg 803, eff 2-4-99 (emergency); Amended at 16 Ok Reg 2001, eff 6-14-99; Amended at 21 Ok Reg 1048, eff 5-14-04; Amended at 23 Ok Reg 1097, eff 5-11-06; Amended at 23 Ok Reg 3122, eff 6-29-06 (emergency); Amended at 24 Ok Reg 213, eff 10-26-06 (emergency); Amended at 24 Ok Reg 2246, eff 6-25-07]

435:10-4-7. Licensure by endorsement

(a) The Board may license an applicant by endorsement based upon the applicant's current license in another state, the District of Columbia, U.S. territory, or Canada and who has passed a medical licensure examination allowed by 59 O.S. § 493.3(A)(2), and who has complied with all other current licensure requirements of the Act.

(b) The Board has approved for the purpose of a medical licensure examination the FLEX, USMLE, National Board and LMCC examinations or acceptable combinations thereof. All steps of the licensure examination must be passed within ten (10) years unless otherwise prohibited by applicable law.

(c) The following applies to all applicants regarding examinations failures unless otherwise prohibited by applicable law:

(1) Any applicant who fails any part of a licensing examination three times will not be eligible for a license. A score of incomplete shall be considered a failing score. The USMLE Step 2-Clinical Knowledge and Step 2-Clinical Skills shall be considered as separate steps.

(2) If a combination of NBME, FLEX and/or USMLE is utilized, any applicant who has failed more than six (6) examinations will not be eligible for a license.

(3) If an applicant has achieved certification by an American Board of Medical Specialties (ABMS) Board, an exception to 435:10-4-7 (c) (1) and (2) may be granted by a vote of the Board.

(d) To apply for licensure by endorsement, an applicant shall submit an application as required by 435:10-4-4 and 435:10-4-5, as applicable.

(e) In addition, the applicant shall provide information to the Board, on a form created by the Board, in regard to the applicant's current license and previous examination.

(f) In the event an applicant is not qualified for licensure by endorsement, the applicant may, upon payment of applicable fees, sit for licensure examination authorized by this rule.

[Source: Added at 11 Ok Reg 4535, eff 7-27-94 (emergency); Added at 12 Ok Reg 1223, eff 5-11-95; Amended at 15 Ok Reg 3945, eff 7-9-98 (emergency); Amended at 16 Ok Reg 803, eff 2-4-99 (emergency); Amended at 16 Ok Reg 1211, eff 5-14-99; Amended at 17 Ok Reg 1350, eff 5-11-00; Amended at 21 Ok Reg 1048, eff 5-14-04; Amended at 23 Ok Reg 1097, eff 5-11-06; Amended at 23 Ok Reg, eff 6-29-06 (emergency); Amended at 23 Ok Reg, eff 10-26-2006; Amended at 24 Ok Reg 2246, eff 6-25-07]

435:10-4-8. Endorsement of certified applicants

The Board recognizes that the degree conferred upon a student of medicine is not always a doctorate of medicine. The Board will accept equivalent degrees when the underlying education is similar to the education of the University of Oklahoma School Of Medicine.

[Source: Added at 11 Ok Reg 4535, eff 7-27-94 (emergency); Added at 12 Ok Reg 1223, eff 5-11-95]

435:10-4-9. Board review of applications

The Board may review applications by circularization and thereby vote to approve an application. Any Board member may vote to hold any application until a meeting of the Board for review en banc. Applications approved by circularization shall be ratified at a subsequent meeting of the Board. No application shall be denied except in a meeting of the Board upon a vote of a majority of the Board members.

[Source: Added at 11 Ok Reg 4535, eff 7-27-94 (emergency); Added at 12 Ok Reg 1223, eff 5-11-95]

435:10-4-10. Personal appearance by an applicant

(a) Any Board member may require an applicant to make a personal appearance before the Board or the Secretary prior to action on an application.

(b) An applicant may request to appear before the Board during the application process in order to provide the Board with additional relevant information.

Source: Added at 11 Ok Reg 4535, eff 7-27-94 (emergency); Added at 12 Ok Reg 1223, eff 5-11-95]

435:10-4-11. Written agreement

(a) Board Authority. The Board has been granted authority pursuant to 59 O.S. § 492.1, to require, among other things, that an applicant provide to the Board satisfactory evidence of the ability of the applicant to practice medicine and surgery in this state with reasonable skill and safety. In addition, the Board is empowered pursuant to 59 O.S. § 503 through 513, to take administrative and other action for violation of the Act for unprofessional conduct.

(b) Agreement between Board and applicant.

(1) In consideration of this authority, the Board designates to the Secretary the authority to enter into a written Agreement with an applicant to provide the Board assurance that the applicant will be able to practice medicine and surgery in this state with reasonable skill and safety.

(2) The Secretary may enter into such an Agreement when circumstances and/or conditions of an applicant raise questions as to the fitness or ability of the applicant to practice medicine and surgery with reasonable skill and safety or questions as to prior actions of the applicant in this or any other jurisdiction which would constitute a violation of the Act or these rules, as the Secretary may determine.

(3) The Agreement shall be a written statement of conditions upon which a license may be granted to an applicant, although

no license shall be guaranteed to be granted should an applicant enter into an Agreement, by which the Secretary shall devise and specify authority of the Board or its staff to meet with the applicant upon specified terms, to gather additional information from the applicant or to require the applicant to take certain specified actions if, when and after the applicant is granted a license by the Board. Additionally, the Applicant will agree to pay the actual costs incurred for any testing or monitoring provided for under the Agreement.

(4) Any Agreement entered into by the Secretary and an applicant shall not be effective until ratified by the Board.

(5) The Board intends any Agreement entered into by the Secretary and an applicant to be of a continuing nature until set aside or otherwise terminated by the Board.

(6) An Agreement hereunder shall not be considered by the Board to be disciplinary action.

(7) The failure of a licensee who is the subject of an Agreement to comply with the terms of an Agreement shall be considered a violation of the rules of the Board and shall be grounds for disciplinary action by the Board pursuant to, among other things, OAC 435:10-7-4(11) and (39). Failure to comply with an Agreement hereunder may subject a licensee to revocation by the Board.

(8) At any time during the application process, the Board may hold an application and direct the Secretary to review the application for the possibility of entering into an Agreement with an applicant.

[Source: Added at 12 Ok Reg 3658, eff 5-9-95 (emergency); Added at 13 Ok Reg 1701, eff 5-25-96; Amended at 16 Ok Reg 2003, eff 6-14-99]

SUBCHAPTER 5. APPROVAL OF HOSPITALS AND PROGRAMS FOR POST-GRADUATE TRAINING

Section

435:10-5-1. Determination of hospitals and programs approved for post-graduate training

435:10-5-2. Suspension from hospitals and programs approved

435:10-5-1. Determination of hospitals and programs approved for post-graduate training

In order to properly enforce the provisions of 59 O.S. 1971, Section 493.1(c) relative to post-graduate training, the State Board of Medical Licensure and Supervision shall each year approve sponsoring institutions and their programs which are acceptable for post-graduate training in Oklahoma.

(1) In determining which sponsoring institutions and programs shall be approved for post-graduate training, this Board shall consider among other things, the qualifications of physician educators serving in residencies in said sponsoring institutions and other facilities for giving first year post-graduate training. Physicians not eligible for full and unrestricted licensure in Oklahoma shall not be considered by this Board as qualified to train post-graduate residents.

(2) In determining the sponsoring institutions and programs that shall be approved for first year post-graduate training and residency programs, the Board shall consider as evidence of acceptability the sponsoring institution's accreditation by the Accreditation Council for Graduate Medical Education (ACGME).

(3) Each sponsoring institution shall appoint an institutional official responsible for meeting reporting requirements. The following list of reportable incidents shall be reported to the Board within thirty (30) days of a final action on the part of the sponsoring institution or program:

(A) Whether any disciplinary actions relating to unprofessional conduct (as defined in Title 59 O.S., §509 and OAC 435:10-7-4) were taken against a resident physician in the post-graduate training program.

(B) Whether a resident physician has failed to advance in the residency program for reasons of unprofessional conduct.

(C) Whether a resident physician has been placed on restriction by the program director for reasons of unprofessional conduct.

(D) Whether any resident physician has been dismissed or terminated from the training program and the reasons for such action.

(E) Whether any resident physician has resigned from the training program while under investigation for program violations, misconduct, or unprofessional conduct.

(F) Whether any resident physician has been referred by the program director to a substance abuse program, unless the resident physician enrolls in an impaired physician program approved by the Board.

(4) Failure to report unprofessional conduct or the inability to practice safely may be grounds for disciplinary action against the supervising physician.

[Source: Amended at 11 Ok Reg 4535, eff 7-27-94 (emergency); Amended at 12 Ok Reg 1223, eff 5-11-95; Amended at 14 Ok Reg 1412, eff 5-12-97; Amended at 21 Ok Reg 1049, eff 5-14-04]

435:10-5-2. Suspension from hospitals and programs approved

Any hospital or program appointing any person as a fellow, assistant resident, or resident physician or permitting anyone to practice medicine in such hospital or program without a license or special license to practice medicine in Oklahoma may be suspended from the Board's list of hospitals and programs approved for post-graduate training. It shall be the duty of the hospital and/or medical school appointing such fellow, assistant resident, or resident to ascertain that such appointees hold a license to practice in Oklahoma at the time they begin post-graduate training. The hospital or program must submit within 30 days after the commencement of said employment the name and licensure information to include license number on each fellow, assistant resident or resident physician.

[Source: Amended at 11 Ok Reg 4535, eff 7-27-94 (emergency); Amended at 12 Ok Reg 1223, eff 5-11-95]

SUBCHAPTER 7. REGULATION OF PHYSICIAN AND SURGEON PRACTICE

Section

435:10-7-1. Physicians dispensing dangerous drugs

435:10-7-2. Use of Board certification

435:10-7-3. Administrative citation for violation (Revoked)

435:10-7-4. Unprofessional conduct

435:10-7-5. Determining continued competency of a physician and surgeon

435:10-7-6. Retired physicians and surgeons

435:10-7-7. Relocation of residence or practice

435:10-7-8. Communicable diseases

435:10-7-9. Disposal of human tissue

435:10-7-10. Annual reregistration

435:10-7-11. Use of controlled substances for the management of chronic pain

435:10-7-1. Physicians dispensing dangerous drugs

In compliance with Senate Bill 39, 1987 Session, all medical doctors who desire to dispense "dangerous drugs" to patients must comply with all requirements thereof.

(1) Annual registration. Any medical doctor who desires to dispense "dangerous drugs," as defined by 59 O.S.1991, §§ 355, et seq., to patients must register annually with the Oklahoma State Board of Medical Licensure and Supervision on forms provided by the Board. Registration as a dispensing physician may be combined with annual renewal of licensure in order to simplify the process.

(2) Records made available. The book, file or record required by the Oklahoma Pharmacy Act 59 O.S. 1991, Section 355.1, shall be available to inspection and copying by investigators of the Board during normal business hours.

(3) Initial registration. For initial registration as a dispensing physician from November 1, 1987, to June 1, 1988, the physician may request a registration form from the Board or register in the normal, annual renewal of licensure process.

(4) Registration fee. There is no fee for registration as a dispensing physician.

[Source: Amended at 11 Ok Reg 4535, eff 7-27-94 (emergency); Amended at 12 Ok Reg 1223, eff 5-11-95]

435:10-7-2. Use of Board certification

Allopathic physicians in Oklahoma who may lawfully claim to be “Board Certified” or “Certified by” or a “Diplomat” or “Fellow” are only physicians who have presented to the Oklahoma State Board of Medical Licensure and Supervision evidence of successful completion of all requirements for certification by a member Board of the organization of American Board of Medical Specialties as listed by the American Medical Association, or by any other organization whose program for the certification requested has been found by the Board to be equivalent thereto.

[Source: Amended at 11 Ok Reg 4535, eff 7-27-94 (emergency); Amended at 12 Ok Reg 1223, eff 5-11-95]

435:10-7-3. Administrative citation for violation (Revoked)

[Source: Amended at 11 Ok Reg 4535, eff 7-27-94 (emergency); Revoked at 12 Ok Reg 1223, eff 5-11-95]

435:10-7-4. Unprofessional conduct

The Board has the authority to revoke or take other disciplinary action against a licensee or certificate holder for unprofessional conduct. Pursuant to 59 O.S., 1991, Section 509, “Unprofessional Conduct” shall be considered to include:

- (1) Indiscriminate or excessive prescribing, dispensing or administering of Controlled or Narcotic drugs.
- (2) Prescribing, dispensing or administering of Controlled substances or Narcotic drugs in excess of the amount considered good medical practice or prescribing, dispensing or administering controlled substances or narcotic drugs without medical need in accordance with published standard.
- (3) The habitual or excessive use of any drug which impairs the ability to practice medicine with reasonable skill and safety to the patient.
- (4) Issuing prescriptions for Narcotic or Controlled drugs to minors in violation of 63 O.S. 1978 Supp., Sections 2601 through 2606, as amended.
- (5) Purchasing or prescribing any regulated substance in Schedule I through V, as defined by the Uniform Controlled Dangerous Substances Act, for the physician’s personal use.
- (6) Dispensing, prescribing or administering a Controlled substance or Narcotic drug without medical need.
- (7) The delegation of authority to another person for the signing of prescriptions for either controlled or non-controlled drugs, except as provided for in 59 O.S., 519.6D.
- (8) Fraud or misrepresentation in applying for or procuring a medical license or in connection with applying for or procuring periodic reregistration of a medical license.
- (9) Cheating on or attempting to subvert the medical licensing examination(s).
- (10) The conviction of a felony or any offense involving moral turpitude whether or not related to the practice of medicine and surgery.
- (11) Conduct likely to deceive, defraud, or harm the public.
- (12) Making a false or misleading statement regarding skill or the efficacy or value of the medicine, treatment, or remedy prescribed by a physician or at a physician’s direction in the treatment of any disease or other condition of the body or mind.
- (13) Representing to a patient that an incurable condition, sickness, disease, or injury can be cured.
- (14) Willfully or negligently violating the confidentiality between physician and patient to the detriment of a patient except as required by law.

(15) Gross or repeated negligence in the practice of medicine and surgery.

(16) Being found mentally incompetent or insane by any court of competent jurisdiction; commitment to an institution for the insane shall be considered prima facie evidence of insanity of any physician or surgeon.

(17) Being physically or mentally unable to practice medicine and surgery with reasonable skill and safety.

(18) Practice or other behavior that demonstrates an incapacity or incompetence to practice medicine and surgery.

(19) The use of any false, fraudulent, or deceptive statement in any document connected with the practice of medicine and surgery.

(20) Practicing medicine and surgery under a false or assumed name.

(21) Aiding or abetting the practice of medicine and surgery by an unlicensed, incompetent, or impaired person.

(22) Allowing another person or organization to use a physician's license to practice medicine and surgery.

(23) Commission of any act of sexual abuse, misconduct, or exploitation related or unrelated to the licensee's practice of medicine and surgery.

(24) Prescribing, selling, administering, distributing, ordering, or giving any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug for other than medically accepted therapeutic purposes.

(25) Except as otherwise permitted by law, prescribing, selling, administering, distributing, ordering, or giving to a habitue or addict or any person previously drug dependent, any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug.

(26) Prescribing, selling, administering, distributing, ordering, or giving any drug legally classified as a controlled substance or recognized as an addictive dangerous drug to a family member or to himself or herself. Provided that this paragraph shall not apply to family members outside the second degree of consanguinity or affinity. Provided further that this paragraph shall not apply to medical emergencies when no other medical doctor is available to respond to the emergency.

(27) Violating any state or federal law or regulation relating to controlled substances.

(28) Obtaining any fee by fraud, deceit, or misrepresentation, including fees from Medicare, Medicaid, or insurance.

(29) Employing abusive billing practices.

(30) Directly or indirectly giving or receiving any fee, commission, rebate, or other compensation for professional services not actually and personally rendered, though this prohibition shall not prohibit the legal function of lawful professional partnerships, corporations, or associations.

(31) Disciplinary action of another state or jurisdiction against a license or other authorization to practice medicine and surgery based upon acts of conduct by the licensee similar to acts or conduct that would constitute grounds for action as defined in this section, a certified copy of the record of the action taken by the other state or jurisdiction being conclusive evidence thereof.

(32) Failure to report to the Board any adverse action taken against him or her by another licensing jurisdiction (United States or foreign), by any governmental agency, by any law enforcement agency, or by any court for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section.

(33) Failure to report to the Board surrender of a license or other authorization to

practice medicine and surgery in an other state or jurisdiction, or surrender of membership on any medical staff or in any medical or professional association or society while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section.

(34) Any adverse judgment, award, or settlement, or award arising from a medical liability claim related to acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section.

(35) Failure to transfer pertinent and necessary medical records to another physician in a timely fashion when legally requested to do so by the subject patient or by a legally designated representative of the subject patient.

(36) Improper management of medical records.

(37) Failure to furnish the Board, its investigators or representatives, information lawfully requested by the Board.

(38) Failure to cooperate with a lawful investigation conducted by the Board.

(39) Violation of any provision(s) of the medical practice act or the rules and regulations of the Board or of an action, stipulation, or agreement of the Board.

(40) The inability to practice medicine and surgery with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. To enforce this paragraph, the Board may, upon probable cause, request a physician to submit to a mental or physical examination by physicians designated by it. If the physician refuses to submit to the examination, the Board shall issue an order requiring the physician to show cause why he will not submit to the examination and shall schedule a hearing on the order within thirty (30) days after notice is served on the physician. The physician shall be notified by either personal service or by certified mail with return receipt requested. At the hearing, the physician and his attorney are entitled to present any testimony and other evidence to show why the physician should not be required to submit to the examination. After a complete hearing, the Board shall issue an order either requiring the physician to submit to the examination or withdrawing the request for examination. The medical license of a physician ordered to submit for examination may be suspended until the results of such examination are received and reviewed by the Board.

(41) Failure to provide a proper setting and assistive personnel for medical act, including but not limited to examination, surgery, or other treatment. Adequate medical records to support treatment or prescribed medications must be produced and maintained.

(42) Failure to inform the Board of a state of physical or mental health of the licensee or of any other health professional which constitutes or which the licensee suspects constitutes a threat to the public.

(43) Failure to report to the Board unprofessional conduct committed by another physician.

(44) Abuse of physician's position of trust by coercion, manipulation or fraudulent representation in the doctor-patient relationship.

(45) Engaging in predatory sexual behavior.

(46) Any doctor licensed in Oklahoma using that license for practice in another state, territory, district or federal facility who violates any laws in the state in which he/she is practicing or any federal, territorial or district laws that are in effect in the location in which he/she is using his/her Oklahoma license to practice.

(47) Causing, or assisting in causing, the suicide, euthanasia or mercy killing of any

individual; provided that it is not causing, or assisting in causing, the suicide, euthanasia or mercy killing of any individual to prescribe, dispense or administer medical treatment for the purpose of alleviating pain or discomfort in accordance with Oklahoma Administrative Code 435:10-7-11, even if such use may increase the risk of death, so long as it is not also furnished for the purpose of causing, or the purpose of assisting in causing, death for any reason.

(48) Failing to obtain informed consent, based on full and accurate disclosure of risks, before prescribing, dispensing, or administering medical treatment for the therapeutic purpose of relieving pain in accordance with Oklahoma Administrative Code 435:10-7-11 where use may substantially increase the risk of death.

(49) Failure to establish a physician/patient relationship prior to providing patient-specific medical services, care or treatment, except in a clearly emergent, life threatening situation.

[Source: Amended at 9 Ok Reg 1579, eff 4-27-92; Amended at 10 Ok Reg 1529, eff 4-26-93; Amended at 10 Ok Reg 4375, eff 7-27-93 (emergency); Amended at 11 Ok Reg 1559, eff 4-4-94 (emergency); Amended at 11 Ok Reg 2329, eff 5-26-94; Amended at 11 Ok Reg 4535, eff 7-27-94 (emergency); Amended at 12 Ok Reg 1223, eff 5-11-95; Amended at 13 Ok Reg 1573, eff 8-21-95 (emergency); Amended at 13 Ok Reg 1703, eff 5-25-96; Amended at 16 Ok Reg 1211, eff 5-14-99; Amended at 27 Ok Reg 856, eff 4-25-10]

435:10-7-5. Determining continued competency of a physician and surgeon

(a) Criteria for review. Any active licensed physician who meets any of the following criteria shall be required to demonstrate his continued competence as a physician and surgeon in the State of Oklahoma. The criteria for review shall include:

- (1) Physicians who are more than 75 years of age;
- (2) Physicians who have recently had significant illnesses or medical events which could effect their ability to practice medicine with reasonable competency;
- (3) Physicians who have been the subject of letters of complaint or concern submitted to the Board from persons in the practitioner's sphere of influence.

(b) Upon meeting criteria. Any physician meeting any of these criteria may be:

- (1) Required to submit to physical, psychological or psychiatric examination;
- (2) Required to submit to the SPEX examination or any examination deemed appropriate for the purpose of evaluation of clinical competence by the Board or its designee;
- (3) Required to submit evidence satisfactory to the Board or the Secretary to show successful completion of adequate continuing medical education;
- (4) Required to appear for an interview with the Board, the Board Secretary, or a Board designated physician or group of physicians.

(c) Re-evaluation after meeting criteria. After a physician has met the criteria for determination of continued competence, he/she may be re-evaluated no less frequently than five-year intervals as deemed necessary by the Board.

[Source: Amended at 9 Ok Reg 1573, eff 4-27-92]

435:10-7-6. Retired physicians and surgeons

(a) Holders of full and unrestricted licenses may choose at any time to apply for Physician Emeritus (fully retired) status by notifying this office. There will be no fee associated with obtaining or maintaining this licensure status.

(b) Physicians in this status may continue to use the title or append to their name the letters, M.D., Doctor, Professor, Specialist, Physician or any other title, letters or

designation which represents that such person is a physician. Service on boards, committees or other such groups which require that a member be a physician shall be allowed.

(c) Once this status is acquired the physician shall not practice medicine in any form, prescribe, dispense or administer drugs.

(d) When a physician has retired from practice and subsequently chooses to return to active practice from retired status within six (6) months of the date of retirement, the physician shall:

- (1) Pay required fees and
- (2) Complete required forms

(e) When a physician has retired from practice and chooses to return to active practice from retired status more than six (6) months after date of retirement, in addition to the requirements of payment of fees and completion of forms, the physician may be required by the Board to:

- (1) Make a personal appearance before the Board or Secretary of the Board;
- (2) submit to a physical examination, psychological and/or psychiatric examination;
- (3) provide evidence of successful completion of continuing medical education;
- (4) Successfully take a competency and/or jurisprudence examination as directed by the Board or the Secretary of the Board.

[Source: Amended at 14 Ok Reg, eff 10-1-97 (emergency); Amended at 15 Ok Reg 2019, eff 5-26-98; Amended at 25 Ok Reg 1966, eff 6-26-08]

435:10-7-7. Relocation of residence or practice

All physicians licensed in the State of Oklahoma must submit a street address upon relocation of residence, if used as mailing address, and/or practice address.

[Source: Amended at 11 Ok Reg 4535, eff 7-27-94 (emergency); Amended at 12 Ok Reg 1223, eff 5-11-95]

435:10-7-8. Communicable diseases

Any physician and surgeon licensed to practice in Oklahoma has a continuing, affirmative obligation to maintain freedom from any communicable disease or condition. In the event a physician contracts a communicable disease or condition, the physician shall either cease performing invasive procedures and take all other relevant precautions, or the physician shall give actual notice to patients of the nature and extent of his communicable disease or condition.

[Source: Added at 9 Ok Reg 1575, eff 4-27-92]

435:10-7-9. Disposal of human tissue

(a) The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

- (1) **“Conviction”**, as used in SB668, 1992 Legislative Session, shall mean a finding, by the Board, that a physician did violate any provision of this Section.
- (2) **“Human tissue”** means all parts of the human body recognizable as such without the use of specialized equipment.
- (3) **“Physician”** means a person licensed under the provisions of Title 59 O.S., Section 481 et seq.

(b) All human tissue, which is collected in the course of the diagnosis and/or treatment of any human condition by a doctor of allopathic medicine, his employee or agent, must be handled in one of the following ways:

- (1) Sent for analysis and possible retention as a surgical specimen;
- (2) Sent for autopsy;
- (3) Sent for embalming and burial in accordance with accepted interment standards; or
- (4) Sent for disposal by incineration in a pathological incinerator in the same manner as hazardous medical waste is handled under the applicable state statutes, rules and regulations.

(c) Nothing herein shall preclude the doctor's right to use human tissue for the treatment of disease or injury. Likewise, the doctor shall have the right to assist in arranging appropriate donations through the processes of the Anatomical Board, under the provisions of the Anatomical Gift Act or the preservation of human tissue for other legitimate educational purpose in any accredited educational endeavor.

(d) In no event shall any person knowingly dispose of any human tissue in a public or private dump, refuse or disposal site or place open to public view.

(e) Any allopathic physician who violates or whose employees or agents violate this Section shall, upon conviction in a hearing before the Board, be fined an amount not to exceed Ten Thousand Dollars (\$10,000).

(f) A presumption of compliance occurs once the attending physician has executed one of these methods of handling and his responsibility is deemed fulfilled. In no event shall the allopathic physician be responsible for the acts or omissions of any other licensed professional, independent contractor or other indirect assistant incidental to the ultimate disposal of human tissue by any of the designated methods.

[Source: Added at 10 Ok Reg 1527, eff 4-26-93]

435:10-7-10. Annual reregistration

(a) On an annual basis, each person licensed by the Board shall reregister with the Board. Reregistration shall be conducted during the month of initial licensure of each individual licensee by the Board. Each licensee shall provide to the Board all information required by the Board pursuant to statute, 59 O.S. ss 495a.1, in a form approved by the Board. The Board's staff shall prorate all fees for reregistration periods to equal the actual reregistration period during the period of transition from the uniform June annual reregistration period to the new period of reregistration based upon month of initial licensure.

(b) It shall be the affirmative duty of each licensee to comply with reregistration requirements. No grace period beyond that provided by law shall be allowed. The Board will not hear requests for extensions for reregistration or exemption from any reregistration requirement that the licensee did not receive reregistration materials.

[Source: Added at 12 Ok Reg 767, eff 1-5-95 (emergency); Added at 12 Ok Reg 1235, eff 5-15-95]

435:10-7-11. Use of controlled substances for the management of chronic pain

The Board has recognized that principles of quality medical practice dictate that the people of the State of Oklahoma have access to appropriate and effective pain relief and has adopted the following criteria when evaluating the physician's treatment of pain, including the use of controlled substances:

- (1) **Evaluation of the patient.** A medical history and physical examination must be

obtained, evaluated and documented in the medical record. The medical record should document the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases or conditions, the effect of the pain on physical and psychological function and history of substance abuse. The medical record also should document the presence of one or more recognized medical indications for the use of a controlled substance.

(2) **Treatment plan.** The written treatment plan should state objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function, and should indicate if any further diagnostic evaluations or other treatments are planned. After treatment begins, the physician should adjust drug therapy to the individual medical needs of each patient. Other treatment modalities or a rehabilitation program may be necessary depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment.

(3) **Informed consent and agreement for treatment.** The physician should discuss the risks and benefits of the use of controlled substances with the patient, persons designated by the patient or with the patient's surrogate or guardian if the patient is without medical decision-making capacity. The patient should receive prescriptions from one physician and one pharmacy whenever possible. If the patient is at high risk for medication abuse or has a history of substance abuse, the physician should consider the use of a written agreement between physician and patient outlining patient responsibilities, including:

- (A) urine/serum medication levels screening when requested;
- (B) number and frequency of all prescription refills; and
- (C) reasons for which drug therapy may be discontinued (e.g. violation of agreement)

(4) **Periodic review.** The physician should periodically review the course of pain treatment and any new information about the etiology of the pain or the patient's state of health. Continuation or modification of controlled substances for pain management therapy depends on the physician's evaluation of progress toward treatment objectives. Satisfactory response to treatment may be indicated by the patient's decreased pain, increased level of function or improved quality of life. Objective evidence of improved or diminished function should be monitored and information from family members or other caregivers should be considered in determining the patient's response to treatment. If the patient's progress is unsatisfactory, the physician should assess the appropriateness of continued use of the current treatment plan and consider the use of other therapeutic modalities.

(5) **Consultation.** The physician should be willing to refer the patient, as necessary, for additional evaluation and treatment in order to achieve treatment objectives. Special attention should be given to those patients with pain who are at risk for medication misuse, abuse or diversion. The management of pain in patients with a history of substance abuse or with a comorbid psychiatric disorder may require extra care, monitoring, documentation and consultation with or referral to an expert in the management of such patients.

(6) **Medical records.** Records should remain current and be maintained in an accessible manner, readily available for review. The physician should keep accurate and complete records to include:

- (A) the medical history and physical examination (including vital signs),
- (B) diagnostic, therapeutic and laboratory results,
- (C) evaluations, consultations and follow-up evaluations,
- (D) treatment objectives,

- (E) discussion of risks and benefits,
- (F) informed consent,
- (G) treatments,
- (H) medications (including date, type, dosage and quantity prescribed),
- (I) instructions and agreements and
- (J) periodic reviews.

(7) Compliance with controlled substances laws and regulations. To prescribe, dispense or administer controlled substances, the physician must be licensed in Oklahoma and comply with applicable federal and state regulations. Physicians are referred to the Physicians Manual of the U.S. Drug Enforcement Administration for specific rules governing controlled substances as well as applicable state regulations.

[Source: Added at 16 Ok Reg 2003, eff 6-14-99; Amended at 22 Ok Reg 2096, eff 6-25-05]

SUBCHAPTER 9. PRACTICE AS A SUPERVISED MEDICAL DOCTOR

Section

- 435:10-9-1. Application for SMD certification (Revoked)
- 435:10-9-2. Evaluation of application for SMD certification (Revoked)
- 435:10-9-3. Certificates issued (Revoked)
- 435:10-9-4. Practice under supervision; Supervisor's Agreement (Revoked)
- 435:10-9-5. Identification (Revoked)
- 435:10-9-6. Board jurisdiction (Revoked)
- 435:10-9-7. SMD responsibility to obtain full licensure (Revoked)
- 435:10-9-8. Replacement of supervising physician (Revoked)

[Authority: Title 59 O.S., Section 489]

435:10-9-1. through 435:10-9-8. (Revoked)

[Source: Revoked at 12 Ok Reg 1223, eff 5-11-95]

SUBCHAPTER 11. TEMPORARY AND SPECIAL LICENSURE

Section

- 435:10-11-1. Purpose
- 435:10-11-2. Procedure for temporary licensure
- 435:10-11-3. Procedure for special licensure
- 435:10-11-3.1. Special license for post-graduate training
- 435:10-11-4. Fees
- 435:10-11-5. Practice within scope of license
- 435:10-11-6. Change of supervisory medical doctor

435:10-11-1. Purpose

The purpose of this Subchapter is to set forth requirements for the approval of a temporary license or special license to practice medicine and surgery in this state. In general, temporary licensure rules apply to applicants who demonstrably meet all requirements for the granting of an unrestricted license to practice medicine and surgery but must await Board approval of the application. Special licensure, in general, is applicable to persons who do not meet all requirements for an unrestricted license to practice medicine and surgery but who are qualified to practice medicine and surgery on a limited basis, whether by specialty, level of medical post-graduate training, location or type of practice.

[Source: Added at 11 Ok Reg 4535, eff 7-27-94 (emergency); Added at 12 Ok Reg 1223, eff 5-11-95]

435:10-11-2. Procedure for temporary licensure

(a) Any applicant for an unrestricted license to practice medicine and surgery in this state, whether by examination or endorsement, may make a written application to the Secretary for the issuance of a temporary license to practice medicine and surgery. An applicant for such a license shall meet all statutory and regulatory requirements for the issuance of an unrestricted license to practice medicine and surgery in this state and has complied with all requirements.

(b) Upon receipt by the Secretary of an application for a temporary license to practice medicine and surgery in this state, the Secretary shall review the application of the applicant for an unrestricted license to practice medicine and surgery and confer with staff to verify that the applicant has met or will meet within a reasonable time all requirements for unrestricted licensure but awaits only a vote of the Board on the application for an unrestricted license. If the Secretary is satisfied the applicant has met or will meet within a reasonable time all requirements for unrestricted license to practice medicine and surgery in this state, the Secretary may issue the applicant a temporary license to practice.

(c) A temporary license granted by the Secretary pursuant to this section shall terminate at the next Board meeting at which the Board is scheduled to act upon the applicant's application for an unrestricted license.

(d) The Secretary is authorized to seek injunctive relief against any person who practices beyond the termination of a temporary license granted pursuant to this Section and who has not obtained an unrestricted or special license to practice medicine and surgery in this state.

[Source: Added at 11 Ok Reg 4535, eff 7-27-94 (emergency); Added at 12 Ok Reg 1223, eff 5-11-95]

435:10-11-3. Procedure for special licensure

(a) Effective June 9, 2004 only special licenses for training will be issued by the Board. Persons issued special licenses prior to June 9, 2004 may continue to apply for renewal.

(b) No person granted a special license to practice medicine or surgery in this state shall practice outside the scope of the special license. Any practice outside the scope of a special license shall be deemed to be the unlicensed practice of medicine or surgery. The Secretary is authorized to seek injunctive action to prevent any person from violating terms or limitations of a special license granted by the Board.

(c) Upon application for renewal, the Secretary shall review all special licenses granted on an annual basis to determine if such license should be renewed by the Board or amended as to its terms or limitations. In addition, the Board may grant the holder

of a special license a license without practice limitation when appropriate.

[Source: Added at 11 Ok Reg 4535, eff 7-27-94 (emergency); Added at 12 Ok Reg 1223, eff 5-11-95; Amended at 15 Ok Reg 2020, eff 5-26-98; Amended at 22 Ok Reg 946, eff 5-12-05]

435:10-11-3.1. Special license for post-graduate training

(a) The Secretary of the Board is authorized to issue a special license for training to first-year residents. Unless otherwise renewed, amended, suspended or revoked by the Board, a special license issued under this section may be extended without renewal by the Secretary for a period not to exceed ninety (90) days until scores from the first-year resident's final licensing examination are received and application for full licensure is acted on by the Board.

(b) No special license for post-graduate training may be issued unless the applicant has passed Step 1 and Step 2-Clinical Knowledge and Step 2-Clinical Skills of the United States Medical Licensing Examination (USMLE) within the limits set forth in 435:10-4-6(g).

[Source: Added at 13 Ok Reg 1175, eff 2-26-96 (emergency); Added at 13 Ok Reg 2689, eff 6-27-96; Amended at 15 Ok Reg 2740, eff 6-26-98; Amended at 18 Ok Reg 1309, eff 5-11-01; Amended at 22 Ok Reg 946, eff 5-12-05; Amended at 22 Ok Reg, eff 6-20-05 (emergency); Amended at 23 Ok Reg 1097, eff 5-11-06]

435:10-11-4. Fees

An applicant for either a temporary or special training license shall pay all appropriate fees to the Board prior to the issuance of such a license.

[Source: Added at 11 Ok Reg 4535, eff 7-27-94 (emergency); Added at 12 Ok Reg 1223, eff 5-11-95; Amended at 22 Ok Reg 946, eff 5-12-05]

435:10-11-5. Practice within scope of license

(a) It is the duty of any person issued a temporary license to ensure that such licensee completes the licensure process and does not practice beyond the termination of the temporary license without the issuance of an unrestricted license to practice.

(b) It is the duty of any person issued a special license to practice to comply with any and all restrictions or limitations of the special license. A person who has been issued a special license shall respond promptly to an inquiry from the Board or its staff as to compliance with the restrictions or limitations of the special license.

[Source: Added at 11 Ok Reg 4535, eff 7-27-94 (emergency); Added at 12 Ok Reg 1223, eff 5-11-95]

435:10-11-6. Change of supervisory medical doctor

In the event a special license is granted with the agreed practice limitation that the licensee shall practice under the supervision of another medical doctor, said supervisory physician shall hold a full and unrestricted license to practice medicine and surgery in this state. It shall be the duty of the licensee to request approval from the Board of any change of the supervisory medical doctor prior to effecting such change.

[Source: Added at 11 Ok Reg 4535, eff 7-27-94 (emergency); Added at 12 Ok Reg 1223, eff 5-11-95]

SUBCHAPTER 13. SUPERVISION OF ADVANCED PRACTICE NURSE WITH PRESCRIPTIVE AUTHORITY

Section

435:10-13-1. Purpose

435:10-13-2. Eligibility to supervise advanced practice nurse with prescriptive authority

435:10-13-1. Purpose

The purpose of this Subchapter is to set forth the requirements for allopathic physicians to supervise the advanced practice nurse with prescriptive authority pursuant to 59 O.S., §567.1 et seq.

[Source: Added at 13 Ok Reg, eff 9-3-96 (emergency); Added at 14 Ok Reg, eff 9-10-97 (emergency); Amended at 15 Ok Reg 2021, eff 5-26-98]

435:10-13-2. Eligibility to supervise advanced practice nurse with prescriptive authority

(a) To be eligible to serve as supervising physician for the advanced practice nurse with prescriptive authority, an allopathic physician shall meet the following criteria:

(1) Have possession of a full and unrestricted Oklahoma medical license with Drug Enforcement Agency (DEA) and Oklahoma Bureau of Narcotics (OBN) permits for any drug on the formulary as defined in the Oklahoma Nursing Practice Act.

(2) The physician shall be in an active clinical practice in which no less than twenty (20) hours per week shall involve direct patient contact.

(3) The supervising physician shall be trained and fully qualified in the field of the advanced practice nurse's specialty.

(4) No physician shall supervise more than two (2) full time equivalent advanced practice nurses regarding their prescriptive authority at any one time. For purposes of this section, each "full time equivalent" advanced practice nurse position equals forty (40) hours per week collectively worked by the part-time advanced practice nurses being supervised by the physician. Notwithstanding the provisions for the supervision of two (2) full time equivalent advanced practice nurses above, no physician shall supervise more than a total of four (4) advanced practice nurses. The Board may make an exception to any limit set herein upon request by the physician.

(b) Proper physician supervision of the advanced practice nurse with prescriptive authority is essential. The supervising physician should regularly and routinely review the prescriptive practices and patterns of the advanced practice nurse with prescriptive authority. Supervision implies that there is appropriate referral, consultation, and collaboration between the advanced practice nurse and the supervising physician.

[Source: Added at 13 Ok Reg, eff 9-3-96 (emergency); Added at 15 Ok Reg 42, eff 9-10-97 (emergency); Added at 15 Ok Reg 2021, eff 5-26-98]

SUBCHAPTER 15. CONTINUING MEDICAL EDUCATION

Section

435:10-15-1. Continuing medical education

435:10-15-1. Continuing medical education

(a) Requirements.

(1) Each applicant for re-registration (renewal) of licensure shall certify every three years that he/she has completed the requisite hours of continuing medical education (C.M.E.).

(2) Requisite hours of C.M.E. shall be sixty (60) hours of Category I obtained during the preceding three (3) years as defined by the American Medical Association/Oklahoma State Medical Association/American Academy of Family Physicians or other certifying organization recognized by the Board.

(3) Newly licensed physicians will be required to begin reporting three years from the date licensure was granted.

(b) Audit/Verification.

(1) The Board staff will, each year, randomly or for cause select licensees to be audited for verification that C.M.E. requirements have been met.

(2) The Board shall accept as verification:

(A) Current American Medical Association Physician Recognition Award (AMAPRA);

(B) Specialty board certification or recertification that was obtained during the three year reporting period, by an American Board of Medical Specialties (ABMS) specialty board;

(C) Proof of residency or fellowship training during the preceding three years. Fifty (50) hours of CME may be awarded for each completed year of training;

(D) Copies of certificates for the Category I education.

(c) Compliance.

(1) Licensees selected for audit must submit verification of meeting the CME requirement.

(2) Failure to submit such records shall constitute an incomplete application and shall result in the application being returned to the licensee and the licensee being unable to practice.

(3) A license obtained through misrepresentation shall result in Board action.

[Source: Added at 14 Ok Reg 1413, eff. 5-12-97; Amended at 17 Ok Reg 1351, eff 5-11-00; Amended at 19 Ok Reg 2777, eff 6-24-02 (emergency); Amended at 20 Ok Reg 971, eff 5-21-03]

SUBCHAPTER 17. MEDICAL MICROPIGMENTATION

Section

435:10-17-1. Purpose

435:10-17-2. Definitions

435:10-17-3. Duties and responsibilities

435:10-17-1. Purpose

The purpose of this subchapter is to set forth the duties and responsibilities of an allopathic physician electing to employ and/or utilize a medical micropigmentologist.

[Source: Added at 19 Ok Reg 422, eff. 11-19-01 (emergency); Added at 19 Ok Reg 2302, eff 6-28-02; Amended at 21 Ok Reg 128, eff 10-29-03 (emergency); Amended at 21 Ok Reg 1050, eff 5-14-04]

435:10-17-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

“Medical micropigmentologist” means a person credentialed according to the provisions of Title 63 O.S., Section 1-1450 et seq.

“Patient” means any person undergoing a micropigmentation procedure.

“Physician” means an allopathic physician licensed by the Oklahoma State Board of Medical Licensure and Supervision.

[Source: Added at 19 Ok Reg 422, eff. 11-19-01 (emergency); Added at 19 Ok Reg 2302, eff 6-28-02; Amended at 21 Ok Reg 128, eff 10-29-03 (emergency); Amended at 21 Ok Reg 1050, eff 5-14-04]

435:10-17-3. Duties and responsibilities

(a) To be eligible to serve as a supervising physician for a medical micropigmentologist a physician shall meet the following criteria:

(1) Have possession of a full and unrestricted license to practice allopathic medicine and surgery in the state of Oklahoma.

(2) The supervising physician shall be in full time practice with a minimum of twenty (20) hours per week of direct patient contact.

(b) Medical micropigmentation procedures may only be undertaken within the context of an appropriate doctor/patient relationship wherein a proper patient record is maintained.

(c) The supervising physician may employ and/or utilize no more than two (2) medical micropigmentologists at any one time.

(d) The supervising physician shall determine the level of supervision

[Source: Added at 19 Ok Reg 422, eff. 11-19-01 (emergency); Added at 19 Ok Reg 2302, eff 6-28-02; Amended at 21 Ok Reg 128, eff 10-29-03 (emergency); Amended at 21 Ok Reg 1050, eff 5-14-04]

SUBCHAPTER 19. SPECIAL VOLUNTEER MEDICAL LICENSE

435:10-19-1. Purpose

The purpose of this Subchapter is to set forth the requirements for receiving and maintaining a special volunteer medical license. This volunteer medical license shall be issued as provided for in Title 59 O.S., §493.5 for the sole treatment of indigent and needy persons without expectation of receiving any payment or compensation.

[Source: Added at 21 Ok Reg 128, eff 10-29-03 (emergency); Added at 21 Ok Reg 1051, eff 5-14-04]

435:10-19-2. Procedure for volunteer license

(a) Application for a volunteer medical license shall be submitted on forms provided by the Board and document all information as required in Title 59 O.S., §493.5.

(b) The volunteer medical license shall be issued without the payment of an application fee.

(c) No person granted a volunteer medical license shall practice outside the scope of the license. Any practice outside the scope of the volunteer medical license shall be deemed to be unprofessional conduct and may be grounds for disciplinary action by the Board.

(d) All other provisions of the act and rules shall apply to holders of a volunteer medical license.

[Source: Added at 21 Ok Reg 128, eff 10-29-03 (emergency); Added at 21 Ok Reg 1051, eff 5-14-04]

435:10-19-3. Annual renewal

(a) Holders of a volunteer medical license must apply for renewal on an annual basis on forms provided by the Board.

(b) Renewals issued by the Board will be without any continuing education requirements or renewal fee.

[Source: Added at 21 Ok Reg 128, eff 10-29-03 (emergency); Added at 21 Ok Reg 1051, eff 5-14-04]

SUBCHAPTER 21. ABORTIONS

Section

435:10-21-1. Informed consent

435:10-21-1. Informed consent

(a) No abortion shall be performed in this state except with the voluntary and informed consent of the woman upon whom the abortion is to be performed.

(b) Requirements for obtaining voluntary and informed consent are set forth in Title 63, O.S., §1-738.2.

(c) Any physician performing an abortion in violation of Title 63, O.S., §1-738.2 shall be subject to disciplinary action by the Board.

[Source: Added at 24 Ok Reg 214, eff 10-26-2006 (emergency); Amended at 24 Ok Reg 2248, eff 6-25-07]

CHAPTER 12. ALLIED PROFESSIONAL PEER ASSISTANCE PROGRAM

Section

435:12-1-1. Purpose

435:12-1-2. Definitions

435:12-1-3. Allied Peer Assistance Program

435:12-1-4. Allied Professional Peer Assistance Committee(s)

435:12-1-5. Duties of Program Coordinator(s)

435:12-1-6. Eligibility for Acceptance into the Program

435:12-1-7. Requirements of Participants

435:12-1-8. Discharge from Program

[Authority: Title 59 O.S., Section 518.1 (D), 75 O.S., Sections 302, 305, 307]

[Source: Added at 28 Ok Reg 1749, eff 6-25-2011]

435:12-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with Title 59 O.S., 518.1, the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act. The Allied Professional Peer Assistance Program is created to rehabilitate allied medical professionals whose competency may be compromised because of the abuse of drugs or alcohol.

[Source: Added at 28 Ok Reg 1749, eff 6-25-2011]

435:12-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

“Allied Peer Assistance Committee” means the peer assistance evaluation advisory committee created in Title 59 O.S., section 518.1.

“Board” means the State Board of Medical Licensure and Supervision.

“Professional” means a person licensed in one of the allied professions licensed by the State Board of Medical Licensure and Supervision.

[Source: Added at 28 Ok Reg 1749, eff 6-25-2011]

435:12-1-3. Allied Professional Peer Assistance Program

(a) The Board may appoint an Allied Peer Assistance Committee.

(b) Five Dollars (\$5.00) of the renewal fee for each allied professional licensed by the Board shall be used to implement and maintain the Allied Professional Peer Assistance Program.

(c) Unless otherwise prohibited by applicable law, records of the professionals enrolled in the Allied Professional Peer Assistance Program shall be kept separate from the records of the Board and made public only by court order; provided however, confidential treatment shall be cancelled upon default by the professional in complying with the requirements of the program.

(d) The Board may outsource the program to professional groups specialized in this area.

[Source: Added at 28 Ok Reg 1749, eff 6-25-2011]

435:12-1-4. Allied Peer Assistance Committee(s)

(a) The Allied Peer Assistance Committee members shall be appointed by the Board for a term of three (3) years. The Board may remove any member for neglect of duty, for incompetency, or for unethical or dishonorable conduct.

(b) The Committee shall consist of three (3) members, two (2) of which shall be licensed allied medical professionals with expertise in chemical dependency.

(c) The Committee shall meet at least semi-annually and review reports submitted by the Program Coordinator.

[Source: Added at 28 Ok Reg 1749, eff 6-25-2011]

435:12-1-5. Duties of Program Coordinator(s)

(a) The Board may employ and set the salary of the program coordinator(s).

(b) The Program Coordinator(s) shall report directly to the Board.

(c) The Program Coordinator shall:

(1) Review all complaints regarding a professional suspected of practicing while habitually intemperate or addicted to the use of habit-forming drugs shall be directed to the Program Coordinator.

(2) Meet with the professional and determine whether an assessment/evaluation should be completed.

(3) Develop a Treatment Plan for participation in the Program.

(4) Review results of the professional's participation in the program.

(5) Determine if a professional should be discharged from the Program for failure to comply with the Contract and/or Treatment Plan.

(6) Make semi-annual reports to the Allied Peer Assistance Committee and/or Board.

(7) Coordinate and conduct the Allied Peer Assistance Committee meetings.

[Source: Added at 28 Ok Reg 1749, eff 6-25-2011]

435:12-1-6. Eligibility for Acceptance into the Program

(a) To be eligible for participation in the Program, each applicant must:

(1) voluntarily submit an application for participation;

(2) have a current unrestricted license; and

(3) reside in Oklahoma.

(b) The Board and/or Program Coordinator may refer an applicant for licensure to the Program.

(c) Professionals previously disciplined by the Board shall be ineligible unless referred to the Program by the Board.

[Source: Added at 28 Ok Reg 1749, eff 6-25-2011]

435:12-1-7. Requirements of Participants

Participants shall be required to sign a Contract with the Allied Professional Peer Physician Assistants

Assistance Program, comply with the Treatment Plan and be responsible for the financial costs of participation.

[Source: Added at 28 Ok Reg 1749, eff 6-25-2011]

435:12-1-8. Discharge from Program

(a) Reasons for being discharged from the Program include, but are not limited to:

- (1) failure to comply with the terms of the Contract/Treatment Plan; or
- (2) the participant has become unsafe to practice.

(b) Any participant discharged from the Program for reasons listed in (a) shall be reported to the Board.

(c) Upon notification of the discharge, the Executive Director of the Board shall suspend the license and assign a hearing date for the matter to be presented to the Board.

[Source: Added at 28 Ok Reg 1749, eff 6-25-2011]

11/01/01

STATE OF OKLAHOMA
PHYSICIAN ASSISTANT ACT
Title 59 O.S., Sections 519 - 524

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Section 519. Repealed

Section 519.1. Short title

The provisions of this act shall be known and may be cited as the "Physician Assistant Act".

Section 519.2. Definitions

As used in the Physician Assistant Act:

1. "**Board**" means the State Board of Medical Licensure and Supervision;
2. "**Committee**" means the Physician Assistant Committee;
3. "**Health care services**" means services which require training in the diagnosis, treatment and prevention of disease, including the use and administration of drugs, and which are performed by physician assistants under the supervision and at the direction of physicians. Such services include, but are not limited to:
 - a. initially approaching a patient of any age group in a patient care setting to elicit a detailed history, performing a physical examination, delineating problems and recording the data,
 - b. assisting the physician in conducting rounds in acute and long-term inpatient care settings, developing and implementing patient management plans, recording progress notes and assisting in the provision of continuity of care

in other patient care settings,

c. ordering, performing or interpreting, at least to the point of recognizing deviations from the norm, common laboratory, radiological, cardiographic and other routine diagnostic procedures used to identify pathophysiologic processes,

d. ordering or performing routine procedures such as injections, immunizations, suturing and wound care, and managing simple conditions produced by infection, trauma or other disease processes,

e. assisting in the management of more complex illness and injuries, which may include assisting surgeons in the conduct of operations and taking initiative in performing evaluation and therapeutic procedures in response to life-threatening situations,

f. instructing and counseling patients regarding compliance with prescribed therapeutic regimens, normal growth and development, family planning, emotional problems of daily living and health maintenance,

g. facilitating the referral of patients to the community's health and social services agencies when appropriate, and

h. providing health care services which are delegated by the supervising physician when the service:

(1) is within the physician assistant's skill,

(2) forms a component of the physician's scope of practice, and

(3) is provided with supervision, including authenticating with the signature any form that may be authenticated by the supervising physician's signature with prior delegation by the physician.

Nothing in the Physician Assistant Act shall be construed to permit physician assistants to provide health care services independent of physician supervision;

4. **"Patient care setting"** means a physician's office, clinic, hospital, nursing home, extended care facility, patient's home, ambulatory surgical center or any other setting authorized by the supervising physician;

5. **"Physician assistant"** means a health care professional, qualified by academic and clinical education and licensed by the State Board of Medical Licensure and Supervision, to provide health care services in any patient care setting at the direction and under the supervision of a physician or group of physicians;

6. **"Physician Assistant Drug Formulary"** means a list of drugs and other medical supplies, approved by the State Board of Medical Licensure and Supervision after consultation with the State Board of Pharmacy, that physician assistants are permitted to prescribe and order under the direction of their supervising physicians;

7. **"Remote patient care setting"** means an outpatient clinic or physician's office that qualifies as a Rural Health Clinic, a Federally Qualified Health Center, a nonprofit community-based health center, or any other patient care setting approved by the State Board of Medical Licensure and Supervision, and that provides service to a medically underserved population, as defined by the appropriate government agency;

8. **"Supervising physician"** means an individual holding a license as a physician from the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners, who supervises physician assistants;

9. **"Supervision"** means overseeing and accepting the responsibility for the health care services performed by a physician assistant; and

10. **"Application to practice"** means a written description that defines the scope of practice and the terms of supervision of a physician assistant in a medical practice.

Section 519.3. Physician Assistant Committee--Powers and duties

A. There is hereby created the Physician Assistant Committee, which shall be composed of seven (7) members. Two members of the Committee shall be physician assistants appointed by the State Board of Medical Licensure and Supervision from a list of qualified individuals submitted by the Oklahoma Academy of Physician Assistants. One member shall be a physician appointed by the Board from its membership. One member shall be a physician appointed by the Board from a list of qualified individuals submitted by the Oklahoma State Medical Association and who is not a member of the Board. One member shall be a physician appointed by the State Board of Osteopathic Examiners from its membership. One member shall be a physician appointed by the State Board of Osteopathic Examiners from a list of qualified individuals submitted by the Oklahoma Osteopathic Association and who is not a member of said board. One member shall be a licensed pharmacist appointed by the Board of Pharmacy.

B. The term of office for each member of the Committee shall be five (5) years. Provided, of those members initially appointed to the Committee by the Board, two shall serve three-year terms and two shall serve five-year terms, as designated by the Board; of those members initially appointed to the Committee by the State Board of Osteopathic Examiners, one shall serve a two-year term and one shall serve a four-year term, as designated by said board; and the member initially appointed by the Board of Pharmacy shall serve a five-year term.

C. The Committee shall meet at least quarterly. At the initial meeting of the Committee, members shall elect a chair. The chair shall represent the Committee at all meetings of the Board. Four members shall constitute a quorum for the purpose of conducting official business of the Committee.

D. The State Board of Medical Licensure and Supervision is hereby granted the power and authority to promulgate rules, which are in accordance with the provisions of Section 519.1 et seq. of this title, governing the requirements for licensure as a physician assistant, as well as to establish standards for training, approve institutions for training, and regulate the standards of practice of a physician assistant after licensure, including the power of revocation of a license.

E. The State Board of Medical Licensure and Supervision is hereby granted the power and authority to investigate all complaints, hold hearings, subpoena witnesses and initiate prosecution concerning violations of Section 519.1 et seq. of this title. When such complaints involve physicians licensed by the State Board of Osteopathic Examiners, the State Board of Osteopathic Examiners shall be officially notified of such complaints.

F. 1. The Committee shall advise the Board on matters pertaining to physician assistants, including, but not limited to:

- a. educational standards required to practice as a physician assistant,
- b. licensure requirements required to practice as a physician assistant,
- c. methods and requirements to assure the continued competence of physician assistants after licensure,
- d. the drugs and other medical supplies for which physician assistants are permitted to prescribe and order under the direction of their supervising physicians,
- e. the grounds for revocation or suspension of a license for a physician assistant,
- f. education and experience requirements to receive approval to practice in remote patient care settings, and
- g. all other matters which may pertain to the practice of physician assistants.

2. The Committee shall review and make recommendations to the Board on

all applications for licensure as a physician assistant and all applications to practice which shall be approved by the Board. When considering applicants for licensure, to establish standards of training or approve institutions for training, the Committee shall include the Director, or designee, of all Physician Assistant educational programs conducted by institutions of higher education in the state as members.

3. The Committee shall assist and advise the Board in all hearings involving physician assistants who are deemed to be in violation of Section 519.1 et seq. of this title or the rules of the Board.

Section 519.4. Licensure requirements

To be eligible for licensure as a physician assistant pursuant to the provisions of Section 519.1 et seq. of this title an applicant shall:

1. Be of good moral character;
2. Have graduated from an accredited physician assistant program recognized by the State Board of Medical Licensure and Supervision; and
3. Successfully pass an examination for physician assistants recognized by the Board.

Section 519.5. Repealed

Section 519.6. Filing of application to practice--Services performed--Posting of public notice

A. No health care services may be performed by a physician assistant unless a current application to practice, jointly filed by the supervising physician and physician assistant, is on file with and approved by the State Board of Medical Licensure and Supervision. The application shall include a description of the physician's practice, methods of supervising and utilizing the physician assistant, and names of alternate supervising physicians who will supervise the physician assistant in the absence of the primary supervising physician.

B. The supervising physician need not be physically present nor be specifically consulted before each delegated patient care service is performed by a physician assistant, so long as the supervising physician and physician assistant are or can be easily in contact with one another by radio, telephone or other means of telecommunication. In all patient care settings, the supervising physician shall provide appropriate methods of supervising the health care services provided by the physician assistant including:

- a. being responsible for the formulation or approval of all orders and protocols, whether standing orders, direct orders or any other orders or protocols, which direct the delivery of health care services provided by a physician assistant, and periodically reviewing such orders and protocols,
- b. regularly reviewing the health care services provided by the physician assistant and any problems or complications encountered,
- c. being available physically or through direct telecommunications for consultation, assistance with medical emergencies or patient referral, and
- d. being on-site to provide medical care to patients a minimum of one-half (1/2) day per week. Additional on-site supervision may be required at the recommendation of the Physician Assistant Committee and approved by the Board; and
- e. that it remains clear that the physician assistant is an agent of the supervising physician; but, in no event shall the supervising physician be an employee of the physician assistant.

C. In patients with newly diagnosed chronic or complex illnesses, the physician assistant shall contact the supervising physician within forty-eight (48) hours of the physician assistant's initial examination or treatment and schedule the patient for appropriate evaluation by the supervising physician as directed by the physician.

D. 1. A physician assistant under the direction of a supervising physician may prescribe written and oral prescriptions and orders. The physician assistant may prescribe drugs, including controlled medications in Schedules II through V pursuant to Section 2-312 of Title 63 of the Oklahoma Statutes, and medical supplies and services as delegated by the supervising physician and as approved by the State Board of Medical Licensure and Supervision after consultation with the State Board of Pharmacy on the Physician Assistant Drug Formulary

2. A physician assistant may write an order for a Schedule II drug for immediate or ongoing administration on site. Prescriptions and orders for Schedule II drugs written by a physician assistant must be included on a written protocol determined by the supervising physician and approved by the medical staff committee of the facility or by direct verbal order of the supervising physician. Physician assistants may not dispense drugs, but may request, receive, and sign for professional samples and may distribute professional samples to patients.

E. A physician assistant may perform health care services in patient care settings as authorized by the supervising physician.

F. A physician assistant shall obtain approval from the State Board of Medical Licensure and Supervision prior to practicing in remote patient care settings. Such approval requires documented experience in providing a comprehensive range of primary care services, under the direction of a supervising physician, for at least one (1) year prior to practicing in such settings and such other requirement as the Board may require. The Board is granted the authority to waive this requirement for those applicants possessing equivalent experience and training as recommended by the Committee.

G. Each physician assistant licensed under the Physician Assistant Act shall keep his or her license available for inspection at the primary place of business and shall, when engaged in professional activities, identify himself or herself as a physician assistant.

Section 519.7. Temporary approval of application to practice

The Secretary of the State Board of Medical Licensure and Supervision is authorized to grant temporary approval of a license and application to practice to any physician and a physician assistant who have jointly filed a license and application to practice which meets the requirements set forth by the Board. Such temporary approval to practice shall be reviewed at the next regularly scheduled meeting of the Board. The temporary approval may be approved, extended or rejected by the Board. If rejected, the temporary approval shall expire immediately.

Section 519.8. License renewal--Fees

A. Licenses issued to physician assistants shall be renewed annually on a date determined by the State Board of Medical Licensure and Supervision. Each application for renewal shall document that the physician assistant has earned at least twenty (20) hours of continuing medical education during the preceding calendar year.

B. The Board shall promulgate, in the manner established by its rules, fees for the following:

1. Initial licensure;
2. License renewal;

3. Late license renewal;
4. Application to practice; and
5. Disciplinary hearing.

Section 519.9. Preexisting certificates

Any person who holds a certificate as a physician assistant from the State Board of Medical Licensure and Supervision prior to the effective date of this act shall be granted a certificate as a physician assistant under the provisions of this act.

Section 519.10. Violations--Penalties

Any person who holds herself or himself out as a physician assistant or uses the title "Physician Assistant" without being licensed, or who otherwise violates the provisions of Section 519.1 et seq. of this title shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than Fifty Dollars (\$50.00), nor more than Five Hundred Dollars (\$500.00), by imprisonment in the county jail for not less than five (5) days, nor more than thirty (30) days, or by both such fine and imprisonment. Each day of a violation of the provisions of Section 519.1 et seq. of this title shall constitute a separate and distinct offense. Conviction shall also be grounds for the suspension or revocation of the license of a duly licensed physician assistant.

Section 519.11. Construction of act

A. Nothing in this act shall be construed to prevent or restrict the practice, services or activities of any persons of other licensed professions or personnel supervised by licensed professions in this state from performing work incidental to the practice of their profession or occupation, if that person does not represent himself as a physician assistant.

B. Nothing stated in this act shall prevent any hospital from requiring the physician assistant and/or the supervising physician to meet and maintain certain staff appointment and credentialing qualifications for the privilege of practicing as, or utilizing, a physician assistant in the hospital.

C. Nothing in this act shall be construed to permit a physician assistant to practice medicine or prescribe drugs and medical supplies in this state except when such actions are performed under the supervision and at the direction of a physician approved by the State Board of Medical Licensure and Supervision.

Section 520. Repealed

Section 521. Exceptions

No health care services may be performed under this act in any of the following areas:

- (a) The measurement of the powers or range of human vision, or the determination of the accommodation and refractive states of the human eye or the scope of its functions in general, or the fitting or adaptation of lenses or frames for the aid thereof.
- (b) The prescribing or directing the use of, or using, any optical device in connection with ocular exercises, visual training, vision training or orthoptics.

(c) The prescribing of contact lenses for, or the fitting or adaptation of contact lenses to, the human eye. Nothing in this section shall preclude the performance of routine visual screening.

Section 522. Repealed

Section 523. Repealed

Section 524. Abortion - Infant prematurely born alive - Right to medical treatment

The rights to medical treatment of an infant prematurely born alive in the course of an abortion shall be the same as the rights of an infant of similar medical status prematurely born.

***OKLAHOMA ADMINISTRATIVE CODE
TITLE 435. STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION
CHAPTER 15. PHYSICIAN ASSISTANTS**

SUBCHAPTER

- Subchapter 1. General Provisions
- Subchapter 3. Licensure of Physician Assistants
- Subchapter 5. Regulation of Practice
- Subchapter 7. Advisory Committee
- Subchapter 9. Guidelines for the Utilization of Physician Assistants
- Subchapter 11. Prescriptive Guidelines and Drug Formulary
- Subchapter 13. Prescription Transmittal Guidelines (Revoked)

**This is an unofficial copy of Chapter 15 of Title 435 of the Oklahoma Administrative Code. Official copies may be obtained from the Office of Administrative Rules.*

CHAPTER 15. PHYSICIAN ASSISTANTS

Subchapter

1. General Provisions
3. Licensure of Physician Assistants
5. Regulation of Practice
7. Physician Assistant Committee
9. Guidelines for the Utilization of Physician Assistants
11. Prescriptive Guidelines and Drug Formulary
13. Prescription Transmittal Guidelines

[Authority: Title 59 O.S., Section 519.3]

[Source: Codified 12-30-91]

SUBCHAPTER 1. GENERAL PROVISIONS

Section

- 435:15-1-1. Purpose
- 435:15-1-1.1. Definitions
- 435:15-1-2. Certificate required

435:15-1-1. Purpose

The rules in this chapter set the criteria for qualifying, applying, and practicing as a physician assistant.

[Source: Amended at 10 Ok Reg 4377, eff 7-27-93 (emergency); Amended at 11 Ok Reg 2331, eff 5-26-94]

435:15-1-1.1. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

“Board” means the State Board of Medical Licensure and Supervision.

“Committee” means the Physician Assistant Committee.

“On-site” means the following as it relates to the usage of Schedule II drugs:

- (A) Hospital in-patients;
- (B) Emergency room;
- (C) Surgicenters licensed by the State Health Department; or
- (D) Medical clinics or offices in cases of emergency as defined by the physician
- (E) State-owned Veterans Administration long-term care facilities with an in-house pharmacy.

[Source: Added at 10 Ok Reg 4377, eff 7-27-93 (emergency); Added at 11 Ok Reg 2331, eff 5-26-94; Amended at 20 Ok Reg 973, eff 5-21-03; Amended at 21 Ok Reg 1052, eff 5-14-04]

435:15-1-2. License required

A physician assistant must possess a license issued by the Board prior to practicing such profession.

[Source: Amended at 10 Ok Reg 4377, eff 7-27-93 (emergency); Amended at 11 Ok Reg 2331, eff 5-26-94; Amended at 15 Ok Reg 2022, eff 5-26-98]

SUBCHAPTER 3. LICENSURE OF PHYSICIAN ASSISTANTS

Section

435:15-3-1. Application for licensure

435:15-3-2. Qualifications; examination; character (REVOKED)

435:15-3-3. Approval to supervise more than two PA's (RENUMBERED)

435:15-3-4. Application for second Physician's Assistant (REVOKED)

435:15-3-5. Transfer of certificate; temporary certification; display of certificate (REVOKED)

435:15-3-6. Registry of qualifications (REVOKED)

435:15-3-7. Re-certification (REVOKED)

435:15-3-8. Back-up or alternate supervising physician (REVOKED)

435:15-3-9. Temporarily delegated supervision (REVOKED)

435:15-3-10. Continuing education for renewal (RENUMBERED)

435:15-3-11. License renewal period; reinstatement (RENUMBERED)

435:15-3-12. Temporary authorization to practice

435:15-3-13. Application to practice

435:15-3-14. Temporary approval of an application to practice by a Licensed Physician Assistant

435:15-3-15. Approval to supervise more than two PA's

435:15-3-16. Alternate supervising physician

435:15-3-17. Continuing education for renewal

435:15-3-18. Certificate renewal period; reinstatement

435:15-3-19. Locum tenens

435:15-3-1. Application for licensure

(a) A Physician Assistant license shall only be issued by the Board upon application filed by the physician assistant.

(b) All applicants for Physician Assistant licenses shall meet the following qualifications:

(1) Graduate from an accredited Physician Assistant Program consisting of at least one year of classroom instruction and one year of clinical experience that includes a minimum of one month each in family medicine, emergency medicine and surgery.

(2) A passing score on the Physician Assistant National Certifying Examination administered by the National Commission on the Certification of Physician Assistants, or its successor. The Board may recognize another national examination to determine the qualifications of the applicant to practice as a physician assistant when such examination has documented its ability to measure such skills and abilities. The applicant must bear the cost of the examination.

(3) The applicant shall take and complete the jurisprudence examination prepared by the staff. Seventy-five percent (75%) or above shall be a passing grade.

The examination shall cover the Act and any other significant statute, rule or material related to practice as a Physician Assistant in this state. The applicant shall be provided a copy of all statutes, rules or other material from which the examination was created and may review such material while taking the jurisprudence examination. An applicant who fails the jurisprudence examination three (3) times shall be required to meet with the Secretary in order to devise a study plan prior to taking the jurisprudence examination again. The Board has determined that the jurisprudence examination is an integral part of the application process. A passing score on the jurisprudence examination is a requirement for licensure.

(4) Applicants must be of good moral character.

(5) Applicants must meet other requirements as determined by the Board.

[Source: Amended at 10 Ok Reg 4377, eff 7-27-93 (emergency); Amended at 11 Ok Reg 2331, eff 5-26-94; Amended at 15 Ok Reg 2022, eff 5-26-98; Amended at 16 Ok Reg 378, eff 10-6-98 (emergency); Amended at 16 Ok Reg 1214, eff 5-14-99; Amended at 24 Ok Reg 1102, eff 7-1-07]

435:15-3-2. Qualifications; examination; character (Revoked)

[Source: Revoked at 10 Ok Reg 4377, eff 7-27-93 (emergency); Revoked at 11 Ok Reg 2331, eff 5-26-94]

435:15-3-3. Approval to supervise more than two PA's (Renumbered to 435:15-3-15)

[Source: Amended and renumbered to 435:15-3-15 at 10 Ok Reg 4377, eff 7-27-93 (emergency); Amended and renumbered to 435:15-3-15 at 11 Ok Reg 2331, eff 5-26-94]

435:15-3-4. Application for second Physician's Assistant (Revoked)

[Source: Revoked at 10 Ok Reg 4377, eff 7-27-93 (emergency); Revoked at 11 Ok Reg 2331, eff 5-26-94]

435:15-3-5. Transfer of certificate; temporary certification; display of certificate (Revoked)

[Source: Revoked at 10 Ok Reg 4377, eff 7-27-93 (emergency); Revoked at 11 Ok Reg 2331, eff 5-26-94]

435:15-3-6. Registry of qualifications (Revoked)

[Source: Revoked at 10 Ok Reg 4377, eff 7-27-93 (emergency); Revoked at 11 Ok Reg 2331, eff 5-26-94]

435:15-3-7. Re-certification (Revoked)

[Source: Revoked at 10 Ok Reg 4377, eff 7-27-93 (emergency); Revoked at 11 Ok Reg 2331, eff 5-26-94]

435:15-3-8. Back-up or alternate supervising physician (Revoked)

[Source: Revoked at 10 Ok Reg 4377, eff 7-27-93 (emergency); Revoked at 11 Ok Reg 2331, eff 5-26-94]

435:15-3-9. Temporarily delegated supervision (Revoked)

[Source: Revoked at 10 Ok Reg 4377, eff 7-27-93 (emergency); Revoked at 11 Ok Reg 2331, eff 5-26-94]

435:15-3-10. Continuing education for renewal (Renumbered to 435:15-3-17)

[Source: Amended and renumbered to 435:15-3-17 at 10 Ok Reg 4377, eff 7-27-93 (emergency); Amended and renumbered to 435:15-3-17 at 11 Ok Reg 2331, eff 5-26-94]

435:15-3-11. License renewal period; reinstatement (Renumbered to 435:15-3-18)

[Source: Amended and renumbered to 435:15-3-18 at 10 Ok Reg 4377, eff 7-27-93 (emergency); Amended and renumbered to 435:15-3-18 at 11 Ok Reg 2331, eff 5-26-94]

435:15-3-12. Temporary authorization to practice

(a) The Secretary of the Board, after review of the initial application by the Physician Assistant Committee chairperson or designee, is authorized to grant temporary authorization for an individual who has passed the examination for physician assistants to practice as a physician assistant for a period not to exceed one (1) year from the date of initial application. Initial applications shall be reviewed at the next regularly scheduled meeting of the Board and may be approved, extended or rejected by the Board. If rejected, the temporary approval shall expire immediately and notification of such action shall be sent to the supervising physician by certified mail. Such temporary authorization shall assure that the physician assistant meets the requirements for licensure as specified in 435:15-3-1.

(b) A temporary authorization to practice as a physician assistant may not be renewed.

(c) Physician assistants practicing under a temporary authorization shall not be permitted to practice in remote patient care settings except when the application has been reviewed and approved by the Secretary of the Board and Physician Assistant Committee chairperson.

(d) The supervising physician shall review the care given to every patient seen by a physician assistant practicing under a temporary authorization and countersign every patient chart within 72 hours of the care being rendered except in remote patient care setting when the application has been reviewed and approved by the Secretary of the Board and Physician Assistant Committee chairperson.

[Source: Added at 10 Ok Reg 4377, eff 7-27-93 (emergency); Added at 11 Ok Reg 1009, eff 1-3-94 (emergency); Added at 11 Ok Reg 2331, eff 5-26-94; Amended at 14 Ok Reg 2659, eff 6-26-97; Amended at 15 Ok Reg 2022, eff 5-26-98; Amended at 16 Ok Reg 378, eff 10-6-98 (emergency); Amended at 16 Ok Reg 1214, eff 5-14-99]

435:15-3-13. Application to practice

(a) The physician assistant must hold valid licensure or temporary authorization to practice as a physician assistant.

(b) The supervising physician should hold an unrestricted license to practice medicine or osteopathic medicine. If the physician's license is restricted, the Committee shall individually review the application to practice to determine the nature of the restriction and whether it will prevent the physician's ability to properly supervise the physician assistant.

(c) No health care service can be performed by a physician assistant until a completed application to practice has been filed with the Board and signed by both the physician assistant and the primary supervising physician and, if applicable, the alternating supervising physician(s).

(d) The application shall specify the specialty and scope of practice of the primary supervising physician and documentation of both the physician assistant's and physician's agreement to abide by the regulation of practice as set out in Subchapter 5 of this Chapter.

(e) The supervising physician and physician assistant shall certify to the Board that the physician assistant has prior training in and is knowledgeable of the indications, contraindications, side effects and interactions of all medications which he/she shall prescribe, order, or administer on behalf of the supervising physician.

(f) The primary supervising physician shall be responsible for the performance of the physician assistant.

(g) A physician assistant may be approved to practice under more than one application to practice.

(h) An application to practice that includes the use of remote patient care setting(s), must meet the following additional requirements:

(1) The physician assistant must document:

(A) experience in providing a comprehensive range of primary care services, under responsible physician supervision for at least one year (12 months);

(B) education in advanced cardiac life support; and

(C) such other requirements as the Committee may recommend and the Board may require.

(2) The Board may waive the requirements in (1) of this subsection for those applicants possessing equivalent experience and training as recommended by the Committee.

(i) All applications to practice shall be subject to Board review and approval.

[Source: Added at 10 Ok Reg 4377, eff 7-27-93 (emergency); Added at 11 Ok Reg 2331, eff 5-26-94; Added at 15 Ok Reg 2022, eff 5-26-98; Amended at 16 Ok Reg 378, eff 10-6-98 (emergency); Amended at 16 Ok Reg 1214, eff 5-14-99; Amended at 19 Ok Reg 2303, eff 6-28-02]

435:15-3-14. Temporary approval of an application to practice by a Licensed Physician Assistant

(a) The Secretary of the Board is authorized to grant temporary approval for an application to practice once a licensed physician assistant and physician have submitted a complete application.

(b) The temporary approval shall be reviewed at the next regularly scheduled meeting of the Board and may be approved, extended or rejected by the Board. If rejected, the temporary approval shall expire immediately and notification of such action shall be sent to the supervising physician by certified mail.

[Source: Added at 10 Ok Reg 4377, eff 7-27-93 (emergency); Added at 11 Ok Reg 2331, eff 5-26-94; Amended at 16 Ok Reg 378, eff 10-6-98 (emergency); Amended at 16 Ok Reg 1214, eff 5-14-99]

435:15-3-15. Approval to supervise more than two PA's

The Board shall not approve an application for any one physician to supervise more than two (2) physician assistants at any one time, except that a medical director or supervising physician of a state institution may supervise more than two physician assistants provided that appropriate alternate supervising physician(s) are available and approved by the Board to supervise the physician assistant(s) in the absence of the primary, supervising physician.

*[Source: Amended and renumbered from 435:15-3-3 at 10 Ok Reg 4377, eff 7-27-93 (emergency); Amend-
Physician Assistants*

ed and renumbered from 435:15-3-3 at 11 Ok Reg 2331, eff 5-26-94]

435:15-3-16. Alternate supervising physician

(a) An application to practice may designate one or more alternate supervising physician(s) to supervise the physician assistant.

(b) The alternate supervising physician(s) shall agree to the regulation of practice as set out in Subchapter 5 of this Chapter.

(c) The application shall specify the specialty and scope of practice of the alternating supervising physician.

(d) The primary supervising physician may temporarily delegate supervision of the physician assistant to another alternate supervising physician upon execution of an agreement signed by the primary supervising physician, the physician assistant, and the alternate supervising physician(s) provided that:

(1) The scope of practice of the alternate supervising physician(s) is the same or in reasonable similarity to that of the primary supervising physician.

(2) An agreement to the temporary delegation of supervision shall be signed by the primary supervising physician, the physician assistant, the alternate supervising physician(s) and approved by the Board.

(e) In remote patient care settings, no more than two (2) alternate supervising physicians shall be approved by the Board.

[Source: Added at 10 Ok Reg 4377, eff 7-27-93 (emergency); Added at 11 Ok Reg 2331, eff 5-26-94]

435:15-3-17. Continuing education for renewal

(a) Applicants initially licensed as a physician assistant will be exempt from reporting Continuing Medical Education (CME) credits until one year after licensure, thereafter each applicant for renewal must provide evidence that he or she has successfully earned at least twenty (20) hours of Category I CME hours during the preceding calendar year.

(b) At least one (1) hour of Category I CME shall be earned each calendar year concerning the topic of substance abuse.

(c) The CME hours shall be logged and reported to the Board on an annual basis by the Oklahoma Academy of Physician Assistants, Inc. The applicant shall bear the cost of this requirement.

(d) Any applicant for renewal who does not meet the requirements for continuing education by December 31 of the previous calendar year may not renew until deficient hours are obtained and verified. Additionally, within the next calendar year the licensee will be required to obtain forty (40) hours of Category I CME. Failure to meet these additional requirements will result in further disciplinary action.

[Source: Amended and renumbered from 435:15-3-10 at 10 Ok Reg 4377, eff 7-27-93 (emergency); Amended and renumbered from 435:15-3-10 at 11 Ok Reg 2331, eff 5-26-94; Amended at 15 Ok Reg 2022, eff 5-26-98; Amended at 16 Ok Reg 378, eff 10-6-98 (emergency); Amended at 16 Ok Reg 1214, eff 5-14-99; Amended at 28 Ok Reg 1750, eff 6-25-2011]

435:15-3-18. License renewal period; reinstatement

(a) Renewal of a Physician Assistant license is due on or before March 31 of each calendar year.

(b) Failure to renew by March 31 renders the license inactive and no health care services may be performed by a physician assistant.

(c) Between April 1 and May 31 of each year, renewal of a Physician Assistant license shall require the applicant to pay a late renewal fee as set by the Board in the Fee Schedule at OAC 435:1-1-7(a)(2)(E).

(d) After May 31 of each year, an appropriate application for reinstatement must be filed with and approved by the Board along with payment of an initial application processing fee.

(e) The renewal application shall require notification to the Board of any changes that have occurred in the application to practice during the previous calendar year.

(f) At the time of renewal, the applicant shall take and complete the jurisprudence examination prepared by the staff. Seventy-five percent (75%) or above shall be a passing grade. The examination shall cover the Act and any other significant statute, rule or material related to practice as a Physician Assistant in this state. The applicant shall be provided a copy of all statutes, rules or other material from which the examination was created and may review such material while taking the jurisprudence examination. The license will not be renewed until a successful score is received on the jurisprudence examination.

[Source: Amended and renumbered from 435:15-3-11 at 10 Ok Reg 4377, eff 7-27-93 (emergency); Amended and renumbered from 435:15-3-11 at 11 Ok Reg 2331, eff 5-26-94; Amended at 14 Ok Reg , eff 10-29-96 (emergency); Amended at 14 Ok Reg 1414, eff 5-12-97; Amended at 15 Ok Reg 2022, eff 5-26-98; Amended at 24 Ok Reg 1102, eff 7-1-07; Amended at 27 Ok Reg 2685, eff 8-26-10.]

435:15-3-19. Locum tenens

The Secretary of the Board may grant temporary approval to any physician and physician assistant for an application to practice on a short term basis as a locum tenens in any patient care setting provided the following requirements are met:

- (1) The physician assistant must possess a current license issued by the Board.
- (2) The application to practice meets all other requirements established by the Committee and Board.
- (3) The temporary approval of an application to practice as a locum tenens shall be for a period of not more than one calendar month in any one calendar year period.
- (4) The supervising physician shall provide written protocols or direct orders governing the patient care delivered by the physician assistant.
- (5) The supervising physician shall review the care given to every patient seen by the physician assistant during the locum tenens and countersign every patient chart within 24 hours of the care being rendered.

[Source: Added at 10 Ok Reg 4377, eff 7-27-93 (emergency); Added at 11 Ok Reg 2331, eff 5-26-94; Amended at 15 Ok Reg 2022, eff 5-26-98]

SUBCHAPTER 5. REGULATION OF PRACTICE

Section

- 435:15-5-1. Supervision; physician responsibility; independent care prohibited
- 435:15-5-1.1. Health care services performed and prohibited
- 435:15-5-2. Patient care setting
- 435:15-5-3. Assignment of diagnostic and therapeutic procedures (REVOKED)
- 435:15-5-4. Academic positions (REVOKED)
- 435:15-5-5. Approval of educational and/or experimental programs

- 435:15-5-6. Restriction of eye care (REVOKED)
- 435:15-5-7. Display of identification
- 435:15-5-8. Demonstrate ability to perform (REVOKED)
- 435:15-5-9. Fees for evaluation of qualifications and performance (REVOKED)
- 435:15-5-10. Prescriptions
- 435:15-5-11. Grounds for disciplinary action
- 435:15-5-12. Pre-signed prescriptions (REVOKED)
- 435:15-5-13. Certification of training and notification to liability carrier (REVOKED)

435:15-5-1. Supervision; physician responsibility; independent care prohibited

(a) The health care services performed by a physician assistant shall be done under the supervision of a physician who retains responsibility for patient care, although the physician need not be physically present at each activity of the physician assistant nor be specifically consulted before each delegated task is performed.

(b) A physician assistant must function only under the supervision of a licensed physician. Nothing in the Physician Assistant Act shall be construed to permit physician assistants to provide health care services independent of physician supervision. Physician supervision shall be conducted in accordance with the following standards:

(1) The supervising physician is responsible for the formulation or approval of all orders and protocols (whether standing orders, direct orders, or any other orders or protocols) that directs the delivery of health care services, and the supervising physician shall periodically review such orders and protocols.

(2) The supervising physician regularly reviews the health care services provided by the physician assistant and any problems or complications encountered.

(3) The supervising physician or alternate supervising physician is available physically or through direct telecommunications for consultation, assistance with medical emergencies or patient referral.

(4) The supervising physician or alternate supervising physician routinely is present in the facility to provide medical care to patients.

(5) In remote patient care settings, the supervising physician shall be present in the facility at least one-half day each week the facility is in operation. The Committee may recommend that the physician be present more than one-half day each week the facility is in operation based upon the training and experience of the physician assistant and other factors the Committee shall review. This shall be subject to Board review and approval.

(6) The physician assistant is an agent of the supervising physician and shall not be the employer of the supervising physician.

(c) Any waivers of this section may require personal appearance before the Committee, and the Board if so required by the Committee, by the physician assistant and the primary supervising physician to justify the request.

[Source: Amended at 10 Ok Reg 4377, eff 7-27-93 (emergency); Amended at 11 Ok Reg 2331, eff 5-26-94; Amended at 19 Ok Reg 2303, eff 6-28-02]

435:15-5-1.1. Health care services performed and prohibited

(a) Health care services allowed. A physician assistant may perform the following health care services under the supervision and at the direction of the supervising physician. Such services include, but are not limited to:

(1) Initially approach a patient of any age group in a patient care setting to elicit a detailed history, perform a physical examination, delineate problems, and record the data.

(2) Assist the physician in conducting rounds in acute and long-term inpatient care settings, develop and implement patient management plans, record progress notes, and assist in the provision of continuity of care in other patient care settings.

(3) Order, perform, and/or interpret, at least to the point of recognizing deviations from the norm, common laboratory, radiological, cardiographic, and other routine diagnostic procedures used to identify pathophysiologic processes.

(4) Order or perform routine procedures such as injections, immunizations, suturing and wound care, and manage simple conditions produced by infection or trauma.

(5) Issue written and oral prescriptions and orders for medical supplies, services and drugs, including controlled medications in Schedules III, IV, and V under 63 O.S. ss 2-312 as approved in the Physician Drug Formulary and Board rules.

(6) A physician assistant may write an order for a Schedule II drug for immediate or ongoing administration on site under 63 O.S. ss 2-312 as approved in the Physician Assistant Drug Formulary and Board rules.

(7) Assist in the management of more complex illness and injuries, which may include assisting surgeons in the conduct of operations and taking initiative in performing evaluation and therapeutic procedures in response to life-threatening situations. In patients with newly diagnosed chronic or complex illness, the physician assistant shall contact the supervising physician within forty-eight (48) hours of the physician assistant's initial examination or treatment, and schedule the patient for appropriate evaluation by the supervising physician as directed by the physician.

(8) Instruct and counsel patients regarding compliance with prescribed therapeutic regimens, normal growth and development, family planning, emotional problems of daily living and health maintenance.

(9) Facilitate the referral of patients to the community's health and social service agencies when appropriate.

(10) Provide health care services which are delegated by the supervising physician when the service:

(A) is within the physician assistant's skill,

(B) forms a component of the physician's scope of practice, and

(C) is provided with supervision, including authenticating with the signature any form that may be authenticated by the supervising physician's signature with prior delegation by the physician.

(b) Health care services prohibited.

(1) No health care services may be performed in any of the following areas:

(A) The measurement of the powers of human vision, or the determination of the accommodation and refractive states of the human eye or the scope of its functions in general, or the fitting or adaptation of lenses or frames for the aid thereof.

(B) The prescribing or directing the use of, or using, any optical device in connection with ocular exercises, visual training, vision training or orthoptics.

(C) The prescribing of contact lenses for, or the fitting or adaptation of contact lenses to, the human eye.

(2) Nothing in this section shall preclude the performance of routine visual screening.

[Source: Added at 10 Ok Reg 4377, eff 7-27-93 (emergency); Added at 11 Ok Reg 2331, eff 5-26-94; Amended at 16 Ok Reg 378, eff 10-6-98 (emergency); Amended at 16 Ok Reg 1214, eff 5-14-99; Amended at 19 Ok Reg 2303, eff 6-28-02]

435:15-5-2. Patient care setting

A physician assistant may perform health care services in patient care settings as authorized by the supervising physician.

[Source: Amended at 10 Ok Reg 4377, eff 7-27-93 (emergency); Amended at 11 Ok Reg 2331, eff 5-26-94; Amended at 16 Ok Reg 378, eff 10-6-98 (emergency); Amended at 16 Ok Reg 1214, eff 5-14-99; Amended at 19 Ok Reg 2303, eff 6-28-02]

435:15-5-3. Assignment of diagnostic and therapeutic procedures (Revoked)

[Source: Revoked at 10 Ok Reg 4377, eff 7-27-93 (emergency); Revoked at 11 Ok Reg 2331, eff 5-26-94]

435:15-5-4. Academic positions (Revoked)

[Source: Revoked at 10 Ok Reg 4377, eff 7-27-93 (emergency); Revoked at 11 Ok Reg 2331, eff 5-26-94]

435:15-5-5. Approval of educational and/or experimental programs

(a) All institutions of higher education offering educational programs for physician assistants in the state shall obtain approval of the Board before initiating such programs.

(b) Applications for approval shall:

- (1) Identify all personnel (student, instructor, physician, etc.).
- (2) Specify the location, facilities, content, and purpose of such program.
- (3) Furnish job descriptions and duration of program.
- (4) Furnish other information as the Board may require.

(c) Programs accredited by the Committee on Allied Health Education and Accreditation of the American Medical Association, or its successor, shall be determined as meeting this requirement.

(d) Students from accredited physician assistant programs based in institutions of higher education outside the state of Oklahoma may conduct clinical experiences with physicians practicing in the state provided that:

- (1) The program officially notifies the Board of such activities at least 30 days prior to the initiation of such clinical experiences; and
- (2) The notification shall include the name and address of the student, the name and address of the physician, the dates and lengths of such experiences, and any other information the Board or Committee may require.

[Source: Amended at 10 Ok Reg 4377, eff 7-27-93 (emergency); Amended at 11 Ok Reg 2331, eff 5-26-94]

435:15-5-6. Restriction on eye care (Revoked)

[Source: Revoked at 10 Ok Reg 4377, eff 7-27-93 (emergency); Revoked at 11 Ok Reg 2331, eff 5-26-94]

435:15-5-7. Display of identification

(a) A physician assistant must clearly identify herself/himself as a physician assistant when engaged in professional activities.

(b) The Physician Assistant license issued by the Board shall be prominently displayed in the primary place of practice and the physician assistant shall have on his/her person evidence of current renewal.

[Source: Amended at 10 Ok Reg 4377, eff 7-27-93 (emergency); Amended at 11 Ok Reg 2331, eff 5-26-94; Amended at 15 Ok Reg 2022, eff 5-26-98; Amended at 19 Ok Reg 2303, eff 6-28-02]

435:15-5-8. Demonstrate ability to perform (Revoked)

[Source: Revoked at 10 Ok Reg 4377, eff 7-27-93 (emergency); Revoked at 11 Ok Reg 2331, eff 5-26-94]

435:15-5-9. Fees for evaluation of qualifications and performance (Revoked)

[Source: Revoked at 10 Ok Reg 4377, eff 7-27-93 (emergency); Revoked at 11 Ok Reg 2331, eff 5-26-94]

435:15-5-10. Prescriptions

(a) A physician assistant may issue written and oral prescriptions and other orders for drugs and medical supplies, including controlled medications in Schedules III, IV, and V under 63 Okla. Stat. ss 2-312 as delegated by and within the established scope of practice of the supervising physician and as approved by the Board.

(b) A physician assistant may write an order for a Schedule II drug for immediate or ongoing administration on site. Prescriptions and orders for Schedule II drugs written by a physician assistant must be included on a written protocol determined by the supervising physician and approved by the medical staff committee of the facility or by direct verbal order of the supervising physician.

(c) Written prescriptions shall be issued in the format and in accordance with the Physician Assistant Drug Formulary, listed in Subchapter 11 of this Chapter, as established by the Board in consultation with the Oklahoma State Board of Pharmacy.

(d) All written prescriptions and orders for drugs shall be written on the prescription blank of the supervising physician and must bear the name and phone number of the physician, the printed name and license number of the physician assistant, the original signature of the physician assistant, and any other information the Board may require. If more than one physician name appears on the prescription blank, the physician assistant shall indicate which is the supervising physician.

(e) A physician assistant may not issue prescriptions or orders for drugs and medical supplies that the physician is not permitted to prescribe.

(f) A physician assistant may not dispense drugs but may request, receive and sign for professional samples and may distribute professional samples to patients.

[Source: Amended at 9 Ok Reg 1577, eff 4-27-92; Amended at 10 Ok Reg 4377, eff 7-27-93 (emergency); Amended at 11 Ok Reg 2331, eff 5-26-94; Amended at 15 Ok Reg 2022, eff 5-26-98; Amended at 16 Ok Reg 378, eff 10-6-98 (emergency); Amended at 16 Ok Reg 1214, eff 5-14-99; Amended at 19 Ok Reg 2303, eff 6-28-02]

435:15-5-11. Grounds for disciplinary action

(a) The Board may reprimand or place on probation any holder of a physician assistant license, or may limit, suspend or revoke prescription privileges, or may revoke

or suspend any license issued to a physician assistant for unprofessional conduct. Acts that constitute unprofessional conduct include, but are not limited to:

- (1) Habitually uses intoxicating liquors or habit-forming drugs.
- (2) Conviction of a felony or of a crime involving moral turpitude.
- (3) Obtaining or attempting to obtain a certificate as a physician assistant by fraud or deception.
- (4) Negligent while in practice as a physician assistant or violating the Code of Professional Ethics adopted by the American Academy of Physician Assistants, Inc.
- (5) Being adjudged mentally incompetent by a court of competent jurisdiction.
- (6) Failing to timely make an application for renewal.
- (7) Violating any provision of the Medical Practice Act or the rules promulgated by the Board.

(b) A physician who knowingly allows or participates with a physician assistant who is in violation of the above will be prohibited from supervising physician assistants for so long as the Board deems appropriate.

[Source: Amended at 10 Ok Reg 4377, eff 7-27-93 (emergency); Amended at 11 Ok Reg 2331, eff 5-26-94; Amended at 15 Ok Reg 2022, eff 5-26-98; Amended at 16 Ok Reg 378, eff 10-6-98 (emergency); Amended at 16 Ok Reg 1214, eff 5-14-99; Amended at 19 Ok Reg 2303, eff 6-28-02]

435:15-5-12. Pre-signed prescriptions (Revoked)

[Source: Added at 9 Ok Reg 1577, eff 4-27-92; Revoked at 10 Ok Reg 4377, eff 7-27-93 (emergency); Revoked at 11 Ok Reg 2331, eff 5-26-94]

435:15-5-13. Certification of training and notification to liability carrier (Revoked)

[Source: Added at 9 Ok Reg 1577, eff 4-27-92; Revoked at 10 Ok Reg 1525, eff 4-26-93]

SUBCHAPTER 7. ADVISORY COMMITTEE

Section

435:15-7-1. Physician Assistant Advisory Committee

435:15-7-1. Physician Assistant Advisory Committee

(a) The Physician Assistant Committee shall be composed of those members defined by law to serve a term of five (5) years, except for the initial Committee appointed pursuant to law for staggered terms of less than five (5) years.

(b) The Committee will carry out the activities defined by law and submit recommendations to the Board for action.

(c) The Committee shall advise the Board on all matters pertaining to physician assistants including, but not limited to:

- (1) Educational standards required to practice as a physician assistant.
- (2) Licensure requirements required to practice as a physician assistant.
- (3) Methods and requirements to assure the continued competence of physician assistants after licensure.
- (4) The drugs and other medical supplies that physician assistants are permitted

to issue prescriptions under the direction of their supervising physician as defined on the Physician Assistant Drug Formulary.

(5) The grounds for revocation or suspension of a license for a physician assistant.

(6) Assist and advise in all hearings involving physician assistants who are deemed to be in violation of Title 59 O.S., Sections 519 through 524 or the rules of the Board.

(7) Education and experience requirements to practice in remote patient care settings.

(8) All other matters which may pertain to the practice of physician assistants.

(d) The Committee shall meet at least quarterly prior to each regularly scheduled meeting of the Board, and at such other times as the Board or Committee shall require.

[Source: Amended at 9 Ok Reg 1577, eff 4-27-92; Amended at 10 Ok Reg 4377, eff 7-27-93 (emergency); Amended at 11 Ok Reg 2331, eff 5-26-94; Amended at 15 Ok Reg 2022, eff 5-26-98; Amended at 16 Ok Reg 378, eff 10-6-98 (emergency); Amended at 16 Ok Reg 1214, eff 5-14-99]

SUBCHAPTER 9. GUIDELINES FOR THE UTILIZATION OF PHYSICIAN ASSISTANTS

Section

435:15-9-1. General responsibilities and obligations

435:15-9-2. Supervision

435:15-9-3. New patients

435:15-9-4. Setting

435:15-9-5. Understanding and variance from guidelines

[Source: Codified 5-26-94]

435:15-9-1. General responsibilities and obligations

(a) The physician assistant is an agent of a specific licensed physician or group of physicians. The physician assistant is licensed only to perform health care services as authorized by law under the supervision and at the direction of the responsible physician or group of physicians.

(b) While licensure as a physician assistant under 59 O.S. 519 is the responsibility of the individual applicant, the approval to practice as a physician assistant is a joint act of the physician assistant and the responsible physician(s). This implies that each party agrees to the terms and provisions specified in the approval process.

(c) It is recognized that there are an infinite variety of acts, tasks and functions that might be delegated to a physician assistant, and an infinite variety of settings and circumstances under which these services might be performed. The sections which follow represent an attempt by the Board to clarify its understanding of the obligations of the licensed physician and his/her physician assistant in several of the more common settings. This list is not intended to be all inclusive but merely representative of the current thoughts and policies of the Board. These understandings are considered as having been accepted by the physician assistant and supervising physician unless otherwise described in the approval to practice.

[Source: Added at 10 Ok Reg 4377, eff 7-27-93 (emergency); Added at 11 Ok Reg 2331, eff 5-26-94; Amended at 15 Ok Reg 2022, eff 5-26-98; Amended at 16 Ok Reg 378, eff 10-6-98 (emergency); Amended at 16 Ok Reg 1214, eff 5-14-99; Amended at 19 Ok Reg 2303, eff 6-28-02]

435:15-9-2. Supervision

(a) Proper physician supervision of the physician assistant is essential. Supervision implies that the physician regularly and routinely reviews, and is involved in the health care services delivered by the physician assistant. Supervision also implies that the physician is directing the care delivered by the physician assistant. This may be done by establishing standards and protocols in advance of the care to be given, which the physician assistant will follow in delivering care; directly observing at the time the act or function is performed; or reviewing the care given through chart reviews and audits. While each type of supervision is important, the most essential aspect is that supervision is provided frequently and on an on-going basis. At the same time, it is important for the physician assistant to recognize his/her own limitations and to seek appropriate physician supervision and consultation whenever the physician assistant is unsure about a particular patient problem or treatment.

(b) Physician supervision shall be conducted in accordance with the following standards:

(1) The supervising physician is responsible for the formulation or approval of all orders and protocols, whether standing orders, direct orders, or any other orders or protocols, which direct the delivery of health care services provided by a physician assistant, and periodically reviews such orders and protocols.

(2) The supervising physician regularly reviews the health care services provided by the physician assistant and any problems or complications encountered.

(3) The supervising physician is available physically or through direct telecommunications for consultation, assistance with medical emergencies or patient referral.

(4) The supervising physician is on-site to provide medical care to patients a minimum of one-half day per week. Additional on-site supervision may be required at the recommendation of the Committee and approved by the Board.

[Source: Added at 10 Ok Reg 4377, eff 7-27-93 (emergency); Added at 11 Ok Reg 2331, eff 5-26-94]

435:15-9-3. New patients

(a) One particular area of concern regarding physician supervision involves how to handle new patients who have not previously been seen by the supervising physician(s). In these cases, the patients are unfamiliar with and do not have an established relationship with the physician. This may lead to misunderstandings regarding the physician/physician assistant relationship and to the potential for legal problems if this relationship is not clarified.

(b) It is assumed by the Board that the physician will be actively involved in the initial care of any new patient seen in the practice. This means that, wherever possible, the physician will personally see the new patient at some point during the initial clinic visit. Where this is not possible, such as in remote patient care settings, the physician assistant shall make clear to the patient that he/she is a physician assistant and not a physician, and under whose supervision he/she is providing care. The physician assistant shall display identification on his or her person identifying him/herself as a "Physician Assistant" and shall keep his/her license available for inspection at the primary place of business. In addition, the patient shall be scheduled to see the physician at their next scheduled clinic appointment which shall conform to the following

provision in law: "In patients with newly diagnosed chronic or complex illness, the physician assistant shall contact the supervising physician within forty-eight (48) hours of the physician assistant's initial examination or treatment, and schedule the patient for appropriate evaluation by the supervising physician as directed by the physician."
[Title 59 O.S., Section 519.6(C)]

[Source: Added at 10 Ok Reg 4377, eff 7-27-93 (emergency); Added at 11 Ok Reg 2331, eff 5-26-94; Amended at 16 Ok Reg 378, eff 10-6-98 (emergency); Amended at 16 Ok Reg 1214, eff 5-14-99; Amended at 19 Ok Reg 2303, eff 6-28-02]

435:15-9-4. Setting

(a) Office setting.

(1) In office settings, it is assumed that the physician and the physician assistant function in the same clinical setting and that the physician is available to supervise and consult with the physician assistant about any matter in question, a point in the patient's history, an abnormal physical finding, etc. It is further assumed that the physician assistant immediately notifies the supervising physician of any medical emergency, patient complication or other patient problem encountered.

(2) It is assumed that the physician regularly and systematically checks the charts and notes of the patients seen by the physician assistant, checking for accuracy and completeness of such records, and in particular, the suitability of the plan of management. It is assumed that this type of review is conducted within 48 hours of the care being delivered. It is further assumed that the supervising physician reviews, at least on an annual basis, all existing protocols and orders governing the care given by the physician assistant. This review should be conducted on all protocols and orders for both the outpatient and inpatient settings.

(3) It is assumed that if the primary supervising physician is not available to supervise the physician assistant, another licensed physician, approved by the Board, will be available to provide such supervision. It is also assumed that there are established criteria covering those situations in which the physician must be consulted immediately, such as the patient with substernal chest pain, a child with a temperature over 104 degrees, a patient with severe abdominal pain and guarding, etc.

(b) Hospital setting.

(1) The physician assistant's functions in a hospital setting are regulated by the medical staff bylaws and regulations.

(2) The usual process is that the application for such privileges is filed by both the physician assistant and the supervising physician, reviewed for personal and professional qualifications by the credentials committee, and presented for approval to the medical staff. This process serves two purposes:

(A) Assuring the medical staff that the physician assistant meets professional and ethical standards.

(B) Publicizing the presence of the physician assistant to the medical staff and hospital administration.

(3) Initial workup of patients upon admission is often delegated to the physician assistant. This is an appropriate function if checked and countersigned by the supervising physician on his/her next visit to the hospital, which should usually occur within 24 hours. These workups should meet the standards set for workups performed by the physician staff of the hospital. It is assumed that any abnormalities or other findings are validated by the physician, and that his/her countersignature indicates his/her agreement with the findings recorded by the physician assistant.

(4) Initial orders may be delegated to a physician assistant. These activities are very important in that they involve the function of others, such as the R.N. and L.P.N. assigned to the ward. Copies of all standing orders that the physician has delegated to the physician assistant to order on his/her behalf should be on file in the hospital and available to the nurse accepting such orders as a means of assurance that these orders are emanating from the responsible physician and that they are within the authority which the physician has delegated to the physician assistant. All orders should be checked and countersigned by the responsible physician at his/her next visit to the hospital, which should usually occur within 24 hours.

(5) Examples of orders that a physician assistant can be authorized to issue for a patient include, but are not limited to:

(A) Status orders - indicating the condition of the patient and usually used by the hospital staff to regulate visitors, to transmit to callers, etc. (i.e. "condition fair").

(B) Activity orders - indicating the degree of restriction of position or activity of the patient (i.e. "complete bedrest").

(C) Diet and fluid orders - indicating the amount and type of food and/or oral fluids (i.e. "low salt diet", "1200 calorie ADA diet", "force fluids", etc.).

(D) Test and procedure orders - indicating those tests and procedures necessary for care of the patient (i.e. "urinalysis in am", "schedule for IV urogram", etc.).

(E) Ward Observation and Measurement Orders - indicating those procedures to be carried out by hospital staff personnel (i.e. "BP twice daily", "record I & O").

(F) Medication Orders - indicating those drugs that are to be given to the patient usually by the nursing staff assigned to administer medications (i.e. "ampicillin 250 mg capsules by mouth four times daily").

(6) A glance at (b)(5) of this section reveals the enormous range of orders that may be necessary for the diagnosis and treatment of the patient in the hospital setting. Some are "routine" and could be delegated with very little supervision. Others might need very close supervision. The Board believes that a responsible physician might consider protocols of a "blanket type" covering those types of orders which would require less supervision. These might include orders of type (A), (B), (C), and (D) of (b)(5) of this section. Orders of type (E) of (b)(5) of this section might require more specification, but still may be of the blanket type. Medication orders from the list of drugs on the Oklahoma Physician Assistant Drug Formulary, Subchapter 11 of this Chapter, should also be included under the protocol.

(7) The protocol described in (6) of this subsection might take the form described in Appendix A of this Chapter.

(8) The protocol as listed in 435:15-9-4(b)(7) should cover the majority of those orders of routine or "housekeeping" variety which are necessary for the efficient operation of a unit and for patient comfort, yet carrying little risk in case of error. Still other protocols could be written for specific clinical conditions that are frequently handled by the individual physician/physician assistant team. These protocols could be in the form of standard "sets" of orders for a given clinical diagnosis, such as a patient with an acute appendicitis, uncomplicated myocardial infarction, etc.

(9) There are also orders that must be written in an emergency to cover those rare but urgent situations arising in any hospital environment. These can never be adequately covered in a protocol, and the only advice which can be given is that the patient's interests must take precedence, and the physician assistant and other hos-

pital personnel involved must work out each solution ad hoc. In all such cases, the physician must be contacted immediately and must personally take over the care of the patient as soon as possible.

(10) The physician assistant working in the hospital setting might be delegated any of a wide variety of procedures to be performed on patients under the care of the responsible physician. The delegation of these procedures implies that the physician is satisfied that the physician assistant has the requisite skill, and that the physician agrees with the technique and the safeguards under which the procedure is performed. The physician must not delegate tasks in which he/she is not capable of judging the quality of the skill and technique employed by the physician assistant.

(11) The physician assistant is often delegated the task of writing/dictating the discharge summary on patients under the care of the responsible physician. All such summaries should be carefully read and countersigned by the physician. The physician is reminded that this function is not only an excellent opportunity to review the case, but can also serve as an important review of the physician assistant's role in the hospital setting.

(c) Emergency room setting.

(1) The physician assistant may utilize the emergency room in the course of assisting the physician in the care of patients. For example, a patient may call when the office is closed and, for convenience, the emergency room may be the place of meeting. Such occasional or incidental use is not considered as different from settings listed in (a) and (b) of this section. It is assumed that the activities will be supervised by the responsible physician and that the physician assistant has associate staff privileges to utilize the emergency room for such activities.

(2) The physician assistant may also be employed to work in an emergency room as a primary responsibility. There is ample documentation that a physician assistant can be very effectively and responsibly employed in this setting, but this should be carefully regulated by the facility.

(3) There are special problems in working as a physician assistant in the emergency room setting. The first is the fact that emergencies of a wide variety of severity may enter at any time, including multiple person disasters. Second, the patients are usually transient, with no previous relationship with the physician. They also usually come because of an unscheduled or unexpected illness or injury, and are more prone to be upset and/or hostile. These factors make the emergency room a frequent source of misunderstanding and litigation.

(4) The physician assistant in the emergency room setting must be clearly identified. When the physician assistant is working along side his/her supervising physician, the same understandings are assumed to exist as in the office setting. See 435:15-9-4(a).

(5) The Board is not opposed to the proper and responsible "semiautonomous" utilization of a physician assistant in emergency rooms. There are many small hospitals with such small medical staffs that full-time physician coverage in the emergency room is not possible. In these locations, the utilization of a well-trained physician assistant for such coverage is justified toward the provision of good emergency services, just as the provision of well-trained emergency medical technicians has been an improvement over non-trained ambulance drivers.

(6) If this is the case, then the physician assistant should be the best trained person possible, preferably with advanced training in emergency medicine (i.e. ACLS certification). The community should be well prepared by a public notice stressing the nature of the physician assistant's training and his/her relationship to area phy-

sicians. The physician coverage should be clearly specified and the responsibility clearly accepted by area physicians.

(d) Nursing home and/or extended care facility.

(1) The nursing home or similar long-term care facility shares some of the problems of the hospital, but has the advantage that there is less turnover of patients and the problems. Such facilities are suitable for the utilization of a physician assistant, either on a full-time or part-time basis, under proper physician supervision.

(2) As in the hospital setting, (b) of this section, the initial workup of newly admitted patients is often delegated to a physician assistant. If this is the case, these workups should meet the standards set for workups performed by a physician. It is assumed that all abnormalities are validated by the responsible physician at his/her next visit indicating agreement with the findings as recorded by the physician assistant.

(3) The writing of orders and the performance of procedures should be subject to the same rules and restrictions described for the hospital setting in (b) of this section.

(e) Remote patient care settings.

(1) In an effort to address the shortage of available health care services in rural and inner city areas, the Legislature has authorized the use of physician assistants in practice settings remote from their supervising physicians. These settings, if supervised properly, will assist in expanding health care to areas of Oklahoma previously underserved by existing resources. However, they do require special consideration and constant interaction by both the physician assistant and the physician to assure that good quality medical care is delivered.

(2) It is recognized in remote patient care settings that the physician and the physician assistant are geographically separated during a majority of the time that the physician assistant is delivering patient care. However, the Board assumes that the physician and physician assistant are in frequent contact by telephone or other means of telecommunication whenever the remote site is delivering care to patients, and not just at times when a problem or question arises. The Board further assumes that the physician and physician assistant have practiced together a sufficient period of time to establish a close working relationship in order for the physician assistant to fully understand the physician's standards of care and requirements for consultation on any patient problem seen in the facility.

(3) Remote patient care settings also require an advanced level of knowledge and skills on the part of the physician assistant. This additional knowledge and skill must be documented to the Board in the approval to practice and should include experience in delivering a comprehensive range of care in a non-remote practice setting as well as additional training in emergency medicine procedures.

(4) The supervising physician must also recognize his/her additional role and responsibilities in utilizing a physician assistant in a remote patient care setting. The physician must always be immediately and easily available for consultation on patient problems and willing to personally see any patient upon request from the physician assistant. Further, the physician must exercise close and careful review of the care being delivered in such sites with frequent review of patient protocols, orders and chart entries.

(5) Finally, the Board requires that all remote patient care settings shall have, in writing and signed by the physician, policies which govern the delivery of care of most common illness/injuries likely to be seen in these settings. These policies shall include the historical and physical exam findings, laboratory and other diag-

nostic test findings, and the plan of treatment and follow-up necessary for each of the conditions defined. The Board further assumes that any patient problem seen in these facilities which is not covered by an existing written policy will be discussed with and the treatment plan decided by the physician at the time of the patient's visit to the facility.

(f) Anesthesia setting.

(1) The physician assistant may perform pre- and post-procedural assessment of patients in accordance with guidelines established by the supervising physician.

(2) Physician assistants may administer topical anesthetics, local infiltration, or digital blocks. Physician assistants may administer wrist and ankle nerve blocks under the direct supervision of the supervising physician and following approval by the credentialing committee of the facility.

(3) Physician assistants may not administer general anesthesia.

(4) Physician assistants may administer intravenous sedation analgesia as defined in the current Practice Guidelines for Sedation and Analgesia by Non-Anesthesiologists of the American Society of Anesthesiologists. Administration of intravenous sedation analgesia by physician assistants must be performed under the direct supervision of the supervising physician. Specific education and training is required and must be documented and approved by the credentialing committee of the facility.

(g) Veterans Administration Long-term Care Facilities. Physician assistants may prescribe Schedule II drugs in state-owned Veterans Administration long-term care facilities with an in-house pharmacy.

[Source: Added at 10 Ok Reg 4377, eff 7-27-93 (emergency); Added at 11 Ok Reg 2331, eff 5-26-94; Amended at 16 Ok Reg 378, eff 10-6-98 (emergency); Amended at 16 Ok Reg 1214, eff 5-14-99; Amended at 19 Ok Reg 2303, eff 6-28-02; Amended at 19 Ok Reg 2995, eff 8-19-02 (emergency); Amended at 20 Ok Reg 973, eff 5-21-03; Amended at 21 Ok Reg 1052, eff 5-14-04]

435:15-9-5. Understanding and variance from guidelines

(a) The Board assumes that the physician and physician assistant are in agreement with the principles contained in this subchapter, and are completely familiar with the law and rules governing the use of physician assistants. The Board also assumes that any differences from the guidelines in this subchapter are fully explained in the approval to practice on file with the Board that describes the individual practice profile requested for the physician assistant. This profile also contains specific data that will enable the Board to evaluate the degree to which the practice conforms to these assumptions.

(b) The Board also invites inquiry, if needed, for clarification of specific details. The Board reminds both the physician and physician assistant that the approval to practice is under the aegis of the licensed physician, and that the Board's ultimate recourse in case of violation of any agreements under such approval lies in the restriction or removal, after due process, of the physician's license to practice medicine and the physician assistant's license to practice as a physician assistant in Oklahoma.

[Source: Added at 10 Ok Reg 4377, eff 7-27-93 (emergency); Added at 11 Ok Reg 2331, eff 5-26-94; Amended at 16 Ok Reg 378, eff 10-6-98 (emergency); Amended at 16 Ok Reg 1214, eff 5-14-99; Amended at 19 Ok Reg 2303, eff 6-28-02]

SUBCHAPTER 11. PRESCRIPTIVE GUIDELINES AND DRUG FORMULARY

Section

435:15-11-1. Prescriptive and dispensing authority

435:15-11-2. Drug formulary

[Source: Codified 5-26-94]

435:15-11-1. Prescriptive and dispensing authority

(a) A physician assistant who is recognized by the Board to prescribe under the direction of a supervising physician and is in compliance with the registration requirements of the Uniform Controlled Dangerous Substances Act, in good faith and in the course of professional practice only, may issue written and oral prescriptions and orders for medical supplies, services and drugs, including controlled medications in Schedules III, IV, and V pursuant to 63 O.S. §2-312 as delegated by the supervising physician and as approved in the Physician Assistant Drug Formulary (OAC 435:15-11-2).

(b) Any prescription for a pure form or combination of the following generic classes of drugs, listed in 435:15-11-2, may be prescribed, unless the drug or class of drugs is listed as excluded. Written prescriptions for drugs or classes of drugs that are excluded may be transmitted, only with the direct order of the supervising physician.

(c) Prescriptions for non-controlled medications may be written for up to a 30-day supply with two (2) refills of an agent prescribed for a new diagnosis. For patients with an established diagnosis, up to a 90 day supply with refills up to one year can be written and signed, or called into a pharmacy by a physician assistant.

(d) Prescriptions for Schedules III, IV and V controlled medications may be written for up to a 30-day supply. No refills of the original prescription are allowed. In order for a physician assistant to prescribe a controlled substance in an out-patient setting, the physician assistant must be currently registered with the Drug Enforcement Administration and Oklahoma Bureau of Narcotics and Dangerous Drugs.

(e) A physician assistant may write an order for a Schedule II drug for immediate or ongoing administration on site. Prescriptions and orders for Schedule II drugs written by a physician assistant must be included on a written protocol determined by the supervising physician and approved by the medical staff committee of the facility or by direct verbal order of the supervising physician. In order for a physician assistant to prescribe and order a Schedule II controlled substance for immediate or ongoing administration on site, the physician assistant must be currently registered with the Drug Enforcement Administration and Oklahoma Bureau of Narcotics and Dangerous Drugs.

(f) A prescription issued by a physician assistant, whether written or oral, shall be the joint responsibility of the physician assistant and supervising physician. The supervising physician shall be responsible for the formulation and/or approval of all orders and protocols which allow the physician assistant to issue prescriptions. Questions concerning a prescription may be directed either to the supervising physician whose name shall appear on the prescription blank or to the physician assistant.

(g) All new drug entities will be restricted from the Drug Formulary, listed in 435:15-11-2, and added, if at all, only after review and approval by the Oklahoma State Board of Pharmacy and the Committee, and subsequent approval by the Board. This restriction shall not apply to modifications of current generic drugs included on the Drug Formulary.

(h) Physician Assistants may not dispense drugs, but may request, receive and sign for professional samples and may distribute professional samples directly to patients in accordance with written policies established by the supervising physician.

(i) Physician assistants practicing in patient care settings that are part of the State Department of Health, State Department of Mental Health, or other special patient care settings designated by the Board are permitted to dispense medications directly to patients as directed by the supervising physician in written protocol, standing or direct order. Except for samples, Physician assistants may not dispense drugs in any other practice care setting.

[Source: Added at 10 Ok Reg 4377, eff 7-27-93 (emergency); Added at 11 Ok Reg 2331, eff 5-26-94; Amended at 16 Ok Reg 378, eff 10-6-98 (emergency); Amended at 16 Ok Reg 1214, eff 5-14-99; Amended at 16 Ok Reg 3595 eff 8-25-99 (emergency); Amended at 17 Ok Reg 1352, eff 5-11-00; Amended at 19 Ok Reg 2303, eff 6-28-02; Amended at 24 Ok Reg 1102, eff 7-1-07; Amended at 26 Ok Reg 1079 , eff 5-11-09]

435:15-11-2. Drug formulary

(a) Physician Assistants in accordance with the Physician Assistant Act may prescribe medications that are within the scope of physician assistant practice, under the supervision of a licensed supervising physician and the Physician Assistant Drug Formulary. The Drug Formulary shall list drugs or categories of drugs that shall or shall not be prescribed by the physician assistant or prescribed only under certain criteria.

(b) The Committee will, at least on an annual basis and in a timely manner, review the structure and content of the Physician Assistant Drug Formulary and make such revisions as it deems necessary. Any proposed changes must be reviewed and approved by the State Board of Medical Licensure and Supervision after consultation with the State Board of Pharmacy before becoming effective. Copies of the formulary shall be made available to any licensed pharmacy in the State of Oklahoma upon request. The Board assumes that all supervising physicians and physician assistants are completely familiar with the law and rules governing prescriptive authority of physician assistants.

(c) All drugs in categories listed in 435:15-11-2(d) as defined by the American Hospital Formulary Service Information Book (current) may be prescribed by physician assistants, except as noted in section 435:15-11-2(e).

(d) Inclusionary formulary

- (1) Antihistamine agents
- (2) Anti-infectives
- (3) Autonomic agents
- (4) Blood formation and coagulation agents
- (5) Cardiovascular agents
- (6) Central nervous system agents
- (7) Diagnostic agents
- (8) Electrolyte, caloric and water balance agents
- (9) Enzymes
- (10) Expectorants, antitussives and mucolytic agents
- (11) Eye, ear, nose and throat preparations
- (12) Gastrointestinal agents
- (13) Hormone and synthetic substitutes
- (14) Local anesthetics
- (15) Skin and mucous membrane agents
- (16) Smooth muscle relaxants

- (17) Vitamins
- (18) Miscellaneous therapeutic agents
- (e) Exclusions to the Drug Formulary
 - (1) Anti-infective agent - Chloramphenicol
 - (2) Anti-neoplastic agents - Anti-neoplastic agents used in the treatment of cancer are excluded except that a physician assistant whose supervising physician specializes in hematology/oncology may not originate a prescription for therapy but may be allowed to modify and continue previously established anti-neoplastic therapy.
 - (3) Eye agents
 - (A) Steroid-containing ophthalmic preparations
 - (B) Carbonic anhydrase inhibitors
 - (C) Miotics
 - (D) Mydriatics
 - (E) Physician assistants whose supervising physician's scope of practice includes eye care may prescribe the above eye agents.
 - (4) Hormone and synthetic substitutes
 - (A) Antithyroid agents
 - (B) Pituitary hormones and synthetics
 - (5) Oxytocics - All agents are excluded under the oxytocics category
 - (6) Skin and mucous membrane agents
 - (A) Cell stimulants and proliferants
 - (B) Keratolytic agents
 - (C) Keratoplastic agents
 - (D) Depigmenting and pigmenting agents
 - (E) Physician assistants whose supervising physician's scope of practice includes skin care may prescribe the above agents.
 - (7) Miscellaneous therapeutic agents - Physician assistants whose supervising physician's scope of practice includes disorders of connective tissues may prescribe disease-modifying anti-rheumatic drugs (DMARDs).
 - (8) All Schedule I controlled drugs are excluded.

[Source: Added at 10 Ok Reg 4377, eff 7-27-93 (emergency); Added at 11 Ok Reg 2331, eff 5-26-94; Amended at 14 Ok Reg 2659, eff 6-26-97; Amended at 16 Ok Reg 378, eff 10-6-98 (emergency); Amended at 16 Ok Reg 1214, eff 5-14-99; Amended at 17 Ok Reg 1353, eff 5-11-00; Amended at 18 Ok Reg 1310, eff 5-11-01; Amended at 18 Ok Reg, eff 8-08-01(emergency); Amended at 19 Ok Reg, eff 10-1-02 (emergency); Amended at 20 Ok Reg 2457, eff 7-11-03; Amended at 22 Ok Reg 949, eff 5-12-05]

APPENDIX A. PHYSICIAN ASSISTANT PROTOCOL

This is an example of a protocol the physician may develop for use in the hospital setting.

John A. Doe, PA is hereby authorized to issue the following type orders on patients admitted under my responsibility:

1. Status orders.
2. Activity orders.
3. Diet and fluid orders.

4. Test and procedure orders for the following procedures:
 - a. routine blood and urine tests;
 - b. stool cultures and tests;
 - c. cultures on blood, urine and bodily fluids;
 - d. radiological examinations including contrast studies;
 - e. electrocardiograms.
5. Ward observation and measurement orders with the stipulation that if these are to be carried out for over 24 hours, they must be countersigned by me.
6. Medication orders.

Signed: _____ MD/DO

SUBCHAPTER 13. PRESCRIPTION TRANSMITTAL GUIDELINES [REVOKED]

Section

435:15-13-1. General policies for transmittal of prescriptions (Revoked)

435:15-13-2. Medications (Revoked)

435:15-13-3. Information required on written prescriptions (Revoked)

[Source: Codified 5-26-94]

435:15-13-1. General policies for transmittal of prescriptions [Revoked]

[Source: Added at 10 Ok Reg 4377, eff 7-27-93 (emergency); Added at 11 Ok Reg 2331, eff 5-26-94; Revoked at 16 Ok Reg 378, eff 10-6-98 (emergency); Amended at 16 Ok Reg 1214, eff 5-14-99]

435:15-13-2. Medications [Revoked]

[Source: Added at 10 Ok Reg 4377, eff 7-27-93 (emergency); Added at 11 Ok Reg 2331, eff 5-26-94; Amended at 14 Ok Reg 2659, eff 6-26-97; Revoked at 16 Ok Reg 378, eff 10-6-98 (emergency); Amended at 16 Ok Reg 1214, eff 5-14-99]

435:15-13-3. Information required on written prescriptions [Revoked]

[Source: Added at 10 Ok Reg 4377, eff 7-27-93 (emergency); Added at 11 Ok Reg 2331, eff 5-26-94; Amended at 15 Ok Reg 2022, eff 5-26-98; Revoked at 16 Ok Reg 378, eff 10-6-98 (emergency); Amended at 16 Ok Reg 1214, eff 5-14-99]

Helpful Numbers

State Agencies

General Information	405-521-2011
Archives - State Agency Records	405-522-2502
Capitol	
House of Representatives	405-521-2711
Senate:	405-524-0126
Health Department, Oklahoma State (main number)	405-271-5600
Health Department, Oklahoma City/County	405-427-8651
Health Department, Tulsa City/County	918-582-9355
Health Care Authority:	405-522-7300
HIV-STD (Department of Health)	405-271-4636
Human Services, Department	405-521-2778
Family Support Services	405-521-3076
Indian Affairs Commission	405-521-3828
Insurance Commissioner	405-521-2828
Toll Free	800-522-0071
Medical Licensure & Supervision, Oklahoma State Board of	405-962-1400
Medicolegal Investigations, Board of (Medical Examiners)	405-239-7141
Mental Health & Substance Abuse Services	405-522-3908
Narcotics & Dangerous Drug Control, Oklahoma Bureau of	405-521-2885
Nursing Board	405-962-1800
Pharmacy Board	405-521-3815
Physician Manpower Training Commission	405-843-5667
Fax	405-843-5792
Poison Information Center	405-271-5454
Toll Free (In-state)	800-222-1222
Rural Health Department	405-840-6502
Welfare Department	405-521-3646
Workers Compensation Court	405-522-8600

Federal Offices/Agencies

Drug Enforcement Administration	405-475-7500
Washington, DC	202-307-7255
Indian Health Services	405-951-3768
Internal Revenue Services - Toll Free	800-829-1040
National Practitioner Data Bank - Toll Free	800-767-6732
Social Security Administration	800-772-1213

Medical Schools/Research

Oklahoma Medical Research Foundation	405-271-6673
OSU College of Osteopathic Medicine	918-582-1972
University of Oklahoma Health Sciences Center	405-271-4000 or 271-5600
Admissions & Records	405-271-2347
Alumni Association	405-271-2300
CME	405-271-2350
College of Medicine - Dean's Office	405-271-2265
Graduate Medical Education Department	405-271-2265
Library	405-271-2285
Medical Student Affairs Department	405-271-2316
Physician Associates Program	405-271-2058
University of Oklahoma College of Medicine - Tulsa	918-660-3000

