

*Amended: November 1, 2021*

**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 re-created, to continue until July 1, 2024, 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 four (4) 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.

*Laws 1923, SB 148, c. 59, § 1, emerg. eff. March 31, 1923; Amended by Laws 1925, c. 63, p. 95, § 1, emerg. eff. April 6, 1925; Amended by Laws 1943, SB 98, § 4, emerg. eff. March 24, 1943; Amended by Laws 1965, HB 694, c. 264, § 1, emerg. eff. June 23, 1965; Amended by Laws 1983, HB 1256, c. 159, § 1, emerg. eff. July 1, 1983; Amended by Laws 1987, HB 1478, c. 118, § 5, emerg. eff. July 1, 1987; Amended by Laws 1988, SB 450, c. 225, § 9; Amended by Laws 1993, HB 1129, c. 280, § 1; Amended by Laws 1994, HB 2123, c. 323, § 2, emerg. eff. July 1, 1994; Amended by Laws 1997, HB 1023, c. 33, § 1, emerg. eff. April 7, 1997; Amended by Laws 1998, SB 1364, c. 324, § 1, emerg. 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; Amended by Laws 2013, HB 1700, c. 349, § 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 or hire a physician to serve as Medical Advisor to the Board and the Board staff. The Board may hire the secretary as an employee of the Board at such hours of employment and compensation as determined by the Board. The Board may hire a licensed allopathic physician to serve as the secretary or medical advisor, or both, 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 the 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**

**A. 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 State Board of Medical Licensure and Supervision 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, 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 photograph of the applicant, taken within the previous twelve (12) months;
3. 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, Ireland, Australia or New Zealand 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; Amended by Laws 2013, SB 422, c. 280, § 2, eff. November 1, 2013.*

#### **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.*

## **493.6 Licensure Compact Law - Enactment**

The Interstate Medical Licensure Compact is hereby enacted into law and the Governor shall enter into a compact on behalf of the State of Oklahoma with any jurisdiction legally joined therein, in the form substantially as set forth in Section 2 of this act.

## **493.7 Licensure Compact Law - Enactment**

### **1. Purpose**

In order to strengthen access to health care, and in recognition of the advances in the delivery of health care, the member states of the Interstate Medical Licensure Compact have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards, provides a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients. The Compact creates another pathway for licensure and does not otherwise change a state's existing Medical Practice Act. The Compact also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter, and therefore requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards that participate in the Compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the Compact.

### **2. Definitions**

In this Compact:

(a) "Bylaws" means those bylaws established by the Interstate Commission pursuant to Section 11 of the Compact for its governance, or for directing and controlling its actions and conduct;

(b) "Commissioner" means the voting representative appointed by each member board pursuant to Section 11 of the Compact;

(c) "Conviction" means a finding by a court that an individual is guilty of a criminal offense through adjudication, or entry of a plea of guilt or no contest to the charge by the offender. Evidence of an entry of a conviction of a criminal offense by the court shall be considered final for purposes of disciplinary action by a member board;

(d) "Expedited license" means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the Compact;

(e) "Interstate Commission" means the interstate commission created pursuant to Section 11 of the Compact;

(f) "License" means authorization by a state for a physician to engage in the practice of medicine, which would be unlawful without the authorization;

(g) "Medical Practice Act" means laws and regulations governing the practice of allopathic and osteopathic medicine within a member state;

(h) "Member board" means a state agency in a member state that acts in the sovereign interests of the state by protecting the public through licensure, regulation and education of physicians as directed by the state government;

(i) "Member state" means a state that has enacted the Compact;

(j) "Practice of medicine" means the clinical prevention, diagnosis or treatment of human disease, injury or condition requiring a physician to obtain and maintain a license in compliance with the Medical Practice Act of a member state;

(k) "Physician" means any person who:

- (1) is a graduate of a medical school accredited by the Liaison Committee on Medical Education, the Commission on Osteopathic College Accreditation, or a medical school listed in the International Medical Education Directory or its equivalent,
- (2) passed each component of the United States Medical Licensing Examination (USMLE) or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA) within three attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes,
- (3) successfully completed graduate medical education approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association,
- (4) holds specialty certification or a time-unlimited specialty certificate recognized by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists,
- (5) possesses a full and unrestricted license to engage in the practice of medicine issued by a member board,
- (6) has never been convicted, received adjudication, deferred adjudication, community supervision or deferred disposition for any offense by a court of appropriate jurisdiction,

- (7) has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license,
- (8) has never had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration, and
- (9) is not under active investigation by a licensing agency or law enforcement authority in any state, federal or foreign jurisdiction;

(l) "Offense" means a felony, gross misdemeanor or crime of moral turpitude;

(m) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Section 12 of the Compact that is of general applicability; implements, interprets or prescribes a policy or provision of the Compact, or an organizational, procedural or practice requirement of the Interstate Commission; has the force and effect of statutory law in a member state; and includes the amendment, repeal or suspension of an existing rule;

(n) "State" means any state, commonwealth, district or territory of the United States; and

(o) "State of principal license" means a member state where a physician holds a license to practice medicine and which has been designated as such by the physician for purposes of registration and participation in the Compact.

### **3. Eligibility**

(a) A physician must meet the eligibility requirements as defined in subsection (k) of Section 2 of the Compact to receive an expedited license under the terms and provisions of the Compact.

(b) A physician who does not meet the requirements of subsection (k) of Section 2 of the Compact may obtain a license to practice medicine in a member state if the individual complies with all laws and requirements, other than the Compact, relating to the issuance of a license to practice medicine in that state.

### **4. Designation of State of Principal License**

(a) A physician shall designate a member state as the state of principal license for purposes of registration for expedited licensure through the Compact if the physician possesses a full and unrestricted license to practice medicine in that state, and the state is:

- (1) the state of primary residence for the physician, or
- (2) the state where at least twenty-five percent (25%) of the practice of medicine

occurs, or

- (3) the location of the physician's employer, or
- (4) if no state qualifies under paragraph (1), (2) or (3), the state designated as state of residence for purpose of federal income tax.

(b) A physician may redesignate a member state as state of principal license at any time, as long as the state meets the requirements in subsection (a) of this section.

(c) The Interstate Commission is authorized to develop rules to facilitate redesignation of another member state as the state of principal license.

## **5. Application and Issuance of Expedited Licensure**

(a) A physician seeking licensure through the Compact shall file an application for an expedited license with the member board of the state selected by the physician as the state of principal license.

(b) Upon receipt of an application for an expedited license, the member board within the state selected as the state of principal license shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification, verifying or denying the physician's eligibility, to the Interstate Commission.

- (1) Static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination, and other qualifications as determined by the Interstate Commission through rule, shall not be subject to additional primary-source verification where already primary-source-verified by the state of principal license.
- (2) The member board within the state selected as the state of principal license shall, in the course of verifying eligibility, perform a criminal background check of an applicant, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, with the exception of federal employees who have suitability determination in accordance with U.S. C.F.R. Section 731.202.
- (3) Appeal on the determination of eligibility shall be made to the member state where the application was filed and shall be subject to the law of that state.

(c) Upon verification in subsection (b) of this section, physicians eligible for an expedited license shall complete the registration process established by the Interstate Commission to receive a license in a member state selected pursuant to subsection (a) of this section, including the payment of any applicable fees.

(d) After receiving verification of eligibility under subsection (b) of this section and any fees under subsection (c) of this section, a member board shall issue an expedited license to the physician. This license shall authorize the physician to practice medicine in the issuing state consistent with the Medical Practice Act and all applicable laws and regulations of the issuing member board and member state.

(e) An expedited license shall be valid for a period consistent with the licensure period in the member state and in the same manner as required for other physicians holding a full and unrestricted license within the member state.

(f) An expedited license obtained through the Compact shall be terminated if a physician fails to maintain a license in the state of principal licensure for a nondisciplinary reason, without redesignation of a new state of principal licensure.

(g) The Interstate Commission is authorized to develop rules regarding the application process, including payment of any applicable fees, and the issuance of an expedited license.

## **6. Fees for Expedited Licensure**

(a) A member state issuing an expedited license authorizing the practice of medicine in that state may impose a fee for a license issued or renewed through the Compact.

(b) The Interstate Commission is authorized to develop rules regarding fees for expedited licenses.

## **7. Renewal and Continued Participation**

(a) A physician seeking to renew an expedited license granted in a member state shall complete a renewal process with the Interstate Commission if the physician:

- (1) maintains a full and unrestricted license in a state of principal license,
- (2) has not been convicted of, or received adjudication, deferred adjudication, community supervision or deferred disposition for any offense by a court of appropriate jurisdiction,
- (3) has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license, and
- (4) has not had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration.

(b) Physicians shall comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.

(c) The Interstate Commission shall collect any renewal fees charged for the renewal of a license and distribute the fees to the applicable member board.

(d) Upon receipt of any renewal fees collected in subsection (c) of this section, a member board shall renew the physician's license.

(e) Physician information collected by the Interstate Commission during the renewal process will be distributed to all member boards.

(f) The Interstate Commission is authorized to develop rules to address renewal of licenses obtained through the Compact.

## **8. Coordinated Information System**

(a) The Interstate Commission shall establish a database of all physicians licensed, or who have applied for licensure, under Section 5 of the Compact.

(b) Notwithstanding any other provision of law, member boards shall report to the Interstate Commission any public action or complaints against a licensed physician who has applied or received an expedited license through the Compact.

(c) Member boards shall report disciplinary or investigatory information determined as necessary and proper by rule of the Interstate Commission.

(d) Member boards may report any nonpublic complaint, disciplinary or investigatory information not required by subsection (c) of this section to the Interstate Commission.

(e) Member boards shall share complaint or disciplinary information about a physician upon request of another member board.

(f) All information provided to the Interstate Commission or distributed by member boards shall be confidential, filed under seal and used only for investigatory or disciplinary matters.

(g) The Interstate Commission is authorized to develop rules for mandated or discretionary sharing of information by member boards.

## **9. Joint Investigations**

(a) Licensure and disciplinary records of physicians are deemed investigative.

(b) In addition to the authority granted to a member board by its respective Medical Practice Act or other applicable state law, a member board may participate with other member boards in joint investigations of physicians licensed by the member boards.

(c) A subpoena issued by a member state shall be enforceable in other member states.

(d) Member boards may share any investigative, litigation or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

(e) Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

## **10. Disciplinary Actions**

(a) Any disciplinary action taken by any member board against a physician licensed through the Compact shall be deemed unprofessional conduct which may be subject to discipline by other member boards, in addition to any violation of the Medical Practice Act or regulations in that state.

(b) If a license granted to a physician by the member board in the state of principal license is revoked, surrendered or relinquished in lieu of discipline, or suspended, then all licenses issued to the physician by member boards shall automatically be placed, without further action necessary by any member board, on the same status. If the member board in the state of principal license subsequently reinstates the physician's license, a license issued to the physician by any other member board shall remain encumbered until that respective member board takes action to reinstate the license in a manner consistent with the Medical Practice Act of that state.

(c) If disciplinary action is taken against a physician by a member board not in the state of principal license, any other member board may deem the action conclusive as to matter of law and fact decided, and:

- (1) impose the same or lesser sanction(s) against the physician so long as such sanction(s) are consistent with the Medical Practice Act of that state, or
- (2) pursue separate disciplinary action against the physician under its respective Medical Practice Act, regardless of the action taken in other member states.

(d) If a license granted to a physician by a member board is revoked, surrendered or relinquished in lieu of discipline, or suspended, then any license(s) issued to the physician by any other member board(s) shall be suspended, automatically and immediately without further action necessary by the other member board(s), for ninety (90) days upon entry of the order by the disciplining board, to permit the member board(s) to investigate the basis for the action under the Medical Practice Act of that state. A member board may terminate the automatic suspension of the license it issued prior to the completion of the ninety-day suspension period in a manner consistent with the Medical Practice Act of that state.

## **11. Interstate Medical Licensure Compact Commission**



(a) The member states hereby create the "Interstate Medical Licensure Compact Commission".

(b) The purpose of the Interstate Commission is the administration of the Interstate Medical Licensure Compact, which is a discretionary state function.

(c) The Interstate Commission shall be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth in the Compact, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of the Compact.

(d) The Interstate Commission shall consist of two voting representatives appointed by each member state who shall serve as Commissioners. In states where allopathic and osteopathic physicians are regulated by separate member boards, or if the licensing and disciplinary authority is split between multiple member boards within a member state, the member state shall appoint one representative from each member board. A Commissioner shall be:

- (1) an allopathic or osteopathic physician appointed to a member board,
- (2) an executive director, executive secretary or similar executive of a member board, or
- (3) a member of the public appointed to a member board.

(e) The Interstate Commission shall meet at least once each calendar year. A portion of this meeting shall be a business meeting to address such matters as may properly come before the Commission, including the election of officers. The chairperson may call additional meetings and shall call for a meeting upon the request of a majority of the member states.

(f) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

(g) Each Commissioner participating at a meeting of the Interstate Commission is entitled to one vote. A majority of Commissioners shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission. A Commissioner shall not delegate a vote to another Commissioner. In the absence of its Commissioner, a member state may delegate voting authority for a specified meeting to another person from that state who shall meet the requirements of subsection (d) of this section.

(h) The Interstate Commission shall provide public notice of all meetings and all meetings shall be open to the public. The Interstate Commission may close a meeting, in full or in portion, where it determines by a two-thirds vote of the Commissioners present that an open meeting would be likely to:

- (1) relate solely to the internal personnel practices and procedures of the Interstate Commission,
- (2) discuss matters specifically exempted from disclosure by federal statute,
- (3) discuss trade secrets or commercial or financial information that is privileged or confidential,
- (4) involve accusing a person of a crime or formally censuring a person,
- (5) discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy,
- (6) discuss investigative records compiled for law enforcement purposes, or
- (7) specifically relate to the participation in a civil action or other legal proceeding.

(i) The Interstate Commission shall keep minutes which shall fully describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including record of any roll-call votes.

(j) The Interstate Commission shall make its information and official records, to the extent not otherwise designated in the Compact or by its rules, available to the public for inspection.

(k) The Interstate Commission shall establish an executive committee, which shall include an executive director, officers, members and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. When acting on behalf of the Interstate Commission, the executive committee shall oversee the administration of the Compact, including enforcement and compliance with the provisions of the Compact, its bylaws and rules, and other such duties, as necessary.

(l) The Interstate Commission may establish other committees for governance and administration of the Compact.

## **12. Powers and Duties of The Interstate Commission**

The Interstate Commission shall have the duty and power to:

- (a) Oversee and maintain the administration of the Compact;
- (b) Promulgate rules which shall be binding to the extent and in the manner provided for in the Compact;

(c) Issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the Compact and its bylaws, rules and actions;

(d) Enforce compliance with Compact provisions, the rules promulgated by the Interstate Commission and the bylaws using all necessary and proper means, including but not limited to the use of judicial process;

(e) Establish and appoint committees including, but not limited to, an executive committee as required by Section 11 of the Compact, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties;

(f) Pay, or provide for the payment of the expenses related to the establishment, organization and ongoing activities of the Interstate Commission;

(g) Establish and maintain one or more offices;

(h) Borrow, accept, hire or contract for services of personnel;

(i) Purchase and maintain insurance and bonds;

(j) Employ an executive director who shall have such powers to employ, select or appoint employees, agents or consultants, and to determine their qualifications, define their duties and fix their compensation;

(k) Establish personnel policies and programs relating to conflicts of interest, rates of compensation and qualifications of personnel;

(l) Accept donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of them in a manner consistent with the conflict-of-interest policies established by the Interstate Commission;

(m) Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed;

(n) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed;

(o) Establish a budget and make expenditures;

(p) Adopt a seal and bylaws governing the management and operation of the Interstate Commission;

(q) Report annually to the legislatures and governors of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include reports of financial audits and any recommendations that may have been adopted by the

Interstate Commission;

(r) Coordinate education, training and public awareness regarding the Compact, its implementation and its operation;

(s) Maintain records in accordance with the bylaws;

(t) Seek and obtain trademarks, copyrights and patents; and

(u) Perform such functions as may be necessary or appropriate to achieve the purposes of the Compact.

### **13. Finance Powers**

(a) The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff. The total assessment must be sufficient to cover the annual budget approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

(b) The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same.

(c) The Interstate Commission shall not pledge the credit of any of the member states, except by, and with the authority of, the member state.

(d) The Interstate Commission shall be subject to a yearly financial audit conducted by a certified or licensed public accountant, and the report of the audit shall be included in the annual report of the Interstate Commission.

### **14. Organization and Operation of The Interstate Commission**

(a) The Interstate Commission shall, by a majority of Commissioners present and voting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Compact within twelve (12) months of the first Interstate Commission meeting.

(b) The Interstate Commission shall elect or appoint annually from among its Commissioners a chairperson, a vice-chairperson and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson shall preside at all meetings of the Interstate Commission.

(c) Officers selected in subsection (b) of this section shall serve without remuneration from the Interstate Commission.

(d) The officers and employees of the Interstate Commission shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged act, error or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of such person.

- (1) The liability of the executive director and employees of the Interstate Commission or representatives of the Interstate Commission, acting within the scope of such person's employment or duties for acts, errors or omissions occurring within such person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of such person.
- (2) The Interstate Commission shall defend the executive director, its employees, and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of such person.
- (3) To the extent not covered by the state involved, member state or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney fees and costs, obtained against such persons arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

## **15. Rulemaking Functions of The Interstate Commission**

(a) The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the Compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

(b) Rules deemed appropriate for the operations of the Interstate Commission shall be made pursuant to a rulemaking process that substantially conforms to the Model State Administrative Procedure Act of 2010, and subsequent amendments thereto.

(c) Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule in the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the authority granted to the Interstate Commission.

## **16. Oversight of Interstate Compact**

(a) The executive, legislative and judicial branches of state government in each member state shall enforce the Compact and shall take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of the Compact and the rules promulgated hereunder shall have standing as statutory law but shall not override existing state authority to regulate the practice of medicine.

(b) All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the Compact which may affect the powers, responsibilities or actions of the Interstate Commission.

(c) The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, the Compact or promulgated rules.

## **17. Enforcement of Interstate Compact**

(a) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the Compact.

(b) The Interstate Commission may, by majority vote of the Commissioners, initiate legal action in the United States District Court for the District of Columbia, or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal

offices, to enforce compliance with the provisions of the Compact, and its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

(c) The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

## **18. Default Procedures**

(a) The grounds for default include, but are not limited to, failure of a member state to perform such obligations or responsibilities imposed upon it by the Compact, or the rules and bylaws of the Interstate Commission promulgated under the Compact.

(b) If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the Compact, or the bylaws or promulgated rules, the Interstate Commission shall:

- (1) provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default, and
- (2) provide remedial training and specific technical assistance regarding the default.

(c) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the Compact upon an affirmative vote of a majority of the Commissioners and all rights, privileges and benefits conferred by the Compact shall terminate on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

(d) Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature and each of the member states.

(e) The Interstate Commission shall establish rules and procedures to address licenses and physicians that are materially impacted by the termination of a member state or the withdrawal of a member state.

(f) The member state which has been terminated is responsible for all dues, obligations and liabilities incurred through the effective date of termination, including obligations, the performance of which extends beyond the effective date of termination.

(g) The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been terminated from the Compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

(h) The defaulting state may appeal the action of the Interstate Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

## **19. Dispute Resolution**

(a) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the Compact and which may arise among member states or member boards.

(b) The Interstate Commission shall promulgate rules providing for both mediation and binding dispute resolution, as appropriate.

## **20. Member States, Effective Date and Amendment**

(a) Any state is eligible to become a member state of the Compact.

(b) The Compact shall become effective and binding upon legislative enactment of the Compact into law by no less than seven (7) states. Thereafter, it shall become effective and binding on a state upon enactment of the Compact into law by that state.

(c) The governors of nonmember states, or their designees, shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the Compact by all states.

(d) The Interstate Commission may propose amendments to the Compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

## **21. Withdrawal**

(a) Once effective, the Compact shall continue in force and remain binding upon each and every member state; provided, that a member state may withdraw from the Compact by specifically repealing the statute which enacted the Compact into law.

(b) Withdrawal from the Compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state.



(c) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing the Compact in the withdrawing state.

(d) The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt of notice provided under subsection (c) of this section.

(e) The withdrawing state is responsible for all dues, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extends beyond the effective date of withdrawal.

(f) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the Compact or upon such later date as determined by the Interstate Commission.

(g) The Interstate Commission is authorized to develop rules to address the impact of the withdrawal of a member state on licenses granted in other member states to physicians who designated the withdrawing member state as the state of principal license.

## **22. Dissolution**

(a) The Compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the Compact to one (1) member state.

(b) Upon the dissolution of the Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

## **23. Severability and Construction**

(a) The provisions of the Compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

(b) The provisions of the Compact shall be liberally construed to effectuate its purposes.

(c) Nothing in the Compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

## **24. Binding Effect of Compact and Other Laws**

(a) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the Compact.

(b) All laws in a member state in conflict with the Compact are superseded to the extent of the conflict.

(c) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Commission, are binding upon the member states.

(d) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

(e) In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

*HB 2351, eff. Nov. 1, 2019.*

#### **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 or declared invalid, be disqualified from the practice of medicine and surgery, 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; reproduction 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; 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; 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.

**E.** The Board shall have exclusive power and authority to determine the qualifications and fitness of all applicants for admission to practice allopathic medicine in this state. The Board shall require that each applicant submit to a national criminal history record check as defined in Section 150.9 of Title 74 of the Oklahoma Statutes. The Board shall not disseminate criminal history record information resulting from the background check outside of this state.

*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 State Board of Medical Licensure and Supervision, no less than one time per annum, each licensee licensed by the Oklahoma Allopathic Medical and Surgical Licensure and Supervision 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 or forms provided by the Board, which shall be designed to require the licensee to update 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 the Oklahoma Allopathic Medical and Surgical Licensure and Supervision 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 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. The Board shall promulgate rules on the specific requirements of the amount of continuing medical education needed for reregistration. Failure to meet the requirements in the allotted time may result in the licensee being required to pay a nondisciplinary fine by the Board secretary of up to but not more than One Thousand Dollars (\$1,000.00)

**C.** The Board shall require that the licensee receive not less than one (1) hour of education in pain management or one (1) hour of education in opioid use or addiction each year preceding an application for renewal of a license, unless the licensee has demonstrated to the

satisfaction of the Board that the licensee does not currently hold a valid federal Drug Enforcement Administration registration number.

**D.** 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.

**E.** 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.

**F.** 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 misdemeanor 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 staff 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 staff 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. In any case in which a physician disputes allegations made in a complaint, the matter shall be set and heard by the Board at the next regular meeting of the Board occurring at least thirty (30) days after the day of service of the citation, exclusive of the day of service, but will be heard not later than the next regular meeting of the Board occurring ninety (90) days after service of the citation, exclusive of the day of service. No continuance may be granted by the Board on its own motion or at the request of the defendant or his or her counsel or at the request of the attorney for the state, unless the record of the case, either orally or in writing, sets forth a finding that the ends of justice served by the granting of such continuance outweigh the best interest of the public and the defendant in a speedy hearing. 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, exclusive of the day of service. 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 exclusive of the day of service, but in no case shall the time be extended beyond the date of the next regular meeting of the Board, unless a continuance is 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 State Board of Medical Licensure and Supervision, 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 and may, upon

probable cause, suspend temporarily the license of any person under the jurisdiction of the Board.

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

### **503.2 Administrative Remedies**

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

B. The Board is authorized to prescribe by rule administrative remedies, disciplinary actions and administrative procedures to provide remedies and disciplinary actions for licensee violations of statutory or regulatory prescribed unprofessional conduct, to include fines up to the limits otherwise prescribed by statute or rule.

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

1. For the licensee to contest or dispute any administrative action;
2. For procedures for resolution of any such contest or dispute; and
3. For appropriate protection of private information consistent with state and federal law.

### **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. The secretary of the State Board of Medical Licensure and Supervision, or the secretary's designee, during the course of an investigation, shall have the power to issue subpoenas for the attendance of witnesses, the inspection of premises and the production of documents or things, including, but not limited to, pharmacy, medical and hospital records. Such subpoenas shall carry the same force and effect as if issued as an order from a district court of competent jurisdiction. Patient confidentiality shall be maintained by the Board and subpoena compliance shall not be considered a violation of any state or federal confidentiality laws. 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 Board 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 on the licensure application, 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 on the licensure application, 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 or in cases of unintentional misrepresentation of information on the licensure application, the State Board of Medical Licensure and Supervision shall delegate to the Board secretary the ability to issue a nondisciplinary administrative fine of up to but not more than One Thousand Dollars (\$1,000.00) per licensure applicant or to require a continuing medical education course in ethics, or to take both actions, to impress upon the applicant the seriousness of completing the application truthfully.

**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 518.1 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 or confession of, or plea of guilty, nolo contendere, no contest or Alford plea to a felony or 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, or plea of guilty, nolo contendere, no context or Alford plea to a crime involving violation of:
  - a. the antinarcotic or prohibition laws and regulations of the federal government,
  - b. the laws of this state,
  - c. State Commissioner of Health rules, or
  - d. a determination by a judge or jury;
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 and not prescribing in a safe, medically accepted manner;

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 section 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, exclusive of the day of service. 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.a. Prescribing, dispensing or administering of controlled substances or narcotic drugs in excess of the amount considered good medical practice,

b. prescribing, dispensing or administering controlled substances or narcotic drugs without medical need in accordance with pertinent licensing board standards, or

c. prescribing, dispensing or administering opioid drugs in excess of the maximum limits authorized under Section 2-309I of Title 63 of the Oklahoma Statutes;

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;

20. Performance of an abortion as defined by Section 1-730 of Title 63 of the Oklahoma Statutes, except for an abortion necessary to prevent the death of the mother or to prevent



substantial or irreversible physical impairment of the mother that substantially increases the risk of death. The performance of an abortion on the basis of the mental or emotional health of the mother shall be a violation of this paragraph, notwithstanding a claim or diagnosis that the woman may engage in conduct which she intends to result in her death. The Board shall impose a penalty as provided in Section 509.1 of this title on a licensee who violates this paragraph. The penalty shall include, but not be limited to, suspension of the license for a period of not less than one (1) year; or

21. 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. Investigative files shall remain confidential.

**E. 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.

### **510.1 Medical Marijuana – Guidance – Disciplinary Action**

A. The State Board of Medical Licensure and Supervision is hereby authorized to issue guidance to all allopathic physicians in this state on the recommending of medical marijuana to patients.

B. The Board may take disciplinary action as provided for in the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act against any allopathic physician who willfully violates or aids another in the willful violation of the provisions of Section 420 et. seq. of Title 63 of the Oklahoma Statutes or the provisions of Enrolled House Bill No. 2612 of the 1<sup>st</sup> Session of the 57<sup>th</sup> Oklahoma Legislature.

*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**

A. 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 the attorneys.

B. The Board shall have the authority to hire one or more investigators as may be necessary to carry out the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision 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 a disciplinary action for unprofessional misconduct is warranted or whether the narcotic laws or the dangerous drug laws have been complied with.

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

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

3. Any licensee or applicant for license subject to the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act shall be deemed to have given consent to any duly authorized investigator of the Board to access, enter or inspect the records, either on-site or at the Board office, or facilities of such licensee or applicant subject to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act. Refusal to allow such access, entry or inspection may constitute grounds for the denial, nonrenewal, suspension or revocation of a license. Upon refusal of such access, entry or inspection, pursuant to this section, the Board or a duly authorized representative may make application for and obtain a search warrant from the district court where the facility or records are located to allow such access, entry or inspection.

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

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

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

*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**

A. 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 felony conviction by the courts, 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. Court records of such a conviction 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 program may employ a director for purposes of ongoing nonclerical duties and shall fix the director's

compensation. The Board shall define the duties of the program coordinators and director 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.

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

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

**519 Repealed**

*Repealed by Laws 1993, c. 289, § 12, eff. June 3, 1993.*

*Effective: August 26, 2021*

**\*OKLAHOMA ADMINISTRATIVE CODE  
TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION**

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\*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
- 435:1-1-6. Rulemaking procedures
- 435:1-1-7. Fees
- 435:1-1-8. Reporting information to Board
- 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. Sections 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
- (U) Therapeutic Recreation Specialist application processing fee - \$125.00
- (V) Licensed Professional Music Therapists application processing fee - \$50.00
- (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
- (S) Therapeutic Recreation Specialist
  - (i) Biennial renewal fee - \$100.00
  - (ii) Late renewal fee - \$125.00

(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
- (S) Therapeutic Recreation Specialist - \$30.00

(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](http://www.okmedicalboard.org) and [www.awomansrighttoknowok.org](http://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; Amended at 28 Ok Reg 1745, eff 6-25-11]

#### **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 7. ADMINISTRATIVE REMEDIES

### Section

- 435:7-1-1. Administrative remedy, notice of intention to impose administrative remedy, and service of notice
- 435:7-1-2. Response and contest in writing to notice of intent to impose administrative remedy
- 435:7-1-3. Compliance with notice of imposition of administrative remedy
- 435:7-1-4. Notice and hearing before the Board
- 435:7-1-5. Allowed administrative remedies
- 435:7-1-6. Confidentiality of patient information in notice and/or final administrative remedy order
- 435:7-1-7. Reports of imposition of notice and/or final administrative remedy orders
- 435:7-1-8. Failure to comply with final administrative remedy order

### **435:7-1-1. Administrative remedy, notice of intention to impose administrative remedy, and service of notice**

(a) Pursuant to 59 O.S.Supp.2019, §503.2, the State Board of Medical Licensure and Supervision ("Board"), or the Board Secretary ("Board Secretary") acting for the Board, may issue a Notice against a licensee for statutory or regulatory prescribed unprofessional conduct.

(b) For the purposes of this section, "unprofessional conduct" includes but is not limited to:

- (1) Practicing without timely renewing a license;
- (2) Failure to provide required or accurate information on an initial licensure application;
- (3) Failure to provide required or accurate information on a renewal application;
- (4) Failure to timely obtain required continuing education hours;
- (5) Failure to notify Board of current practice location and mailing address;
- (6) Failure to cooperate with a lawful investigation conducted by the Board; or
- (7) Failure to register with the prescription monitoring program (PMP) in compliance with state law.

(c) Before an administrative remedy is imposed, the licensee shall be provided with a Notice of Intention to Impose Administrative Remedy ("Notice"). The Notice shall include:

- (1) Sufficient information regarding the allegations to allow the licensee to prepare a response;
- (2) The proposed administrative remedy;
- (3) Statement of the time, place, and nature of hearing consistent with Article II of the Administrative Procedures Act;
- (4) Deadlines for a written response and the consequences of failing to meet such deadlines;
- (5) The licensee's right to submit a written response right to appear at the hearing;
- (6) The consequences of the imposition of an administrative remedy, including the fact that the remedy will constitute a public record but that it will not be considered a limitation and restriction on the license and not reportable to the National Practitioner Databank;
- (7) A description of the procedural process for consideration of a written response and request for a personal appearance; and
- (8) The name and contact information for a Board staff member who can provide further information.

(d) A copy of the Notice shall be mailed to the licensee by certified mail, return receipt requested and delivery restricted to the addressee, to the address on file with the Board, or by personal service. A licensee may consent in writing to service via electronic mail message.

**435:7-1-2. Response and contest in writing to notice of intent to impose administrative remedy**

- (a) The licensee must respond in writing to the Notice within twenty (20) days of service as follows:
  - (1) The licensee may consent and comply with the terms of the proposed administrative remedy set forth in the Notice; or
  - (2) The licensee may provide a written contest to the Notice, which must include specific grounds or objections as to why the licensee is contesting the imposition of an administrative remedy, the amount of the remedy, or both.
- (b) If no written response is received as required herein, the Board Secretary shall report the same to the Board at the next regularly Board meeting, and request the Notice be ratified as a Final Administrative Order.

**435:7-1-3. Compliance with notice of imposition of administrative remedy**

If the licensee consents and complies with the Notice within twenty (20) days after service of the Notice, it shall be so acknowledged by the Board Secretary on a copy of the Notice, which shall constitute an agreed imposition of the administrative remedy. A report of the same shall be made by the Board Secretary to the Board at the next regularly scheduled Board meeting for ratification and Final Administrative Order

**435:7-1-4. Notice and hearing before the Board**

- (a) A hearing on a contest of the Notice will be governed by the requirements of Article II of the Administrative Procedures Act. The Board's Rules for Individual Proceedings shall also govern.
- (b) Following a hearing on the contest of the Notice, the Board may affirm, lessen, or reject the administrative remedy set forth in the Notice.
- (c) Within ten (10) days of the Final Administrative Order, a licensee may request a rehearing, reconsideration, or reopening pursuant to 75 O.S. §317 and OKLA. ADMIN. CODE §435:3-3-21. Otherwise, the Board's decision shall constitute a Final Administrative Order.
- (d) The Board's Final Administrative Order shall include the following separately stated information:
  - (1) Findings of Fact; and
  - (2) Conclusions of Law.
- (e) A copy of the Final Administrative Order shall be mailed to the licensee by certified mail, return receipt requested to the addressee, to the address on file with the Board or personally delivered. A copy of the Order shall be delivered or mailed forthwith and to his or her attorney of record.

**435:7-1-5. Allowed administrative remedies**

- (a) The Notice and/or the Board's Final Administrative Order may assess a monetary fine of up to \$1,500.00 per violation of unprofessional conduct but in no event shall a fine exceed any amount otherwise set forth in statute or rules; and/or
- (b) The Board may impose continuing education requirements that must be pre- approved by the Board Secretary or the Board. The Notice will specify the amount of continuing education credit hours required and the time in which the licensee has to complete the credit hours.

**435:7-1-6. Confidentiality of patient information in notice and/or final administrative remedy order**

- (a) To the extent required by law, any patient information must be redacted from any Notice and/or Final Administrative Order or any document filed in a contest of such a Notice of Final

Administrative Order.

(b) To the extent that a patient must be identified, the initials of the patient's first and last names shall be used.

(c) Under no circumstance may the Board, the Board Secretary, Board staff, the licensee, or any person representing the licensee disclose any information confidential by law in any Notice and/or Final Administrative Order or any document filed in a contest of such Notice and/or Final Administrative Order.

(d) "Document," includes but is not limited to, originals or copies, whether tangible or electronically stored, of any letters, notes, pleadings, exhibits, photographs, videos, sound recordings, or demonstrative exhibits.

#### **435:7-1-7. Reports of imposition of notice and/or final administrative remedy orders**

(a) Any Notice or Final Administrative Order issued under this Chapter shall be a public record.

(b) The issuance of a Notice or Final Administrative Order under this Chapter may not be considered a restriction or limitation on the license, nor shall the issuance either one be considered an action connected with the delivery of health care services. Further, the imposition of any order under this Chapter shall not be reported to the National Practitioner Data Bank.

#### **435:7-1-8. Failure to comply with final administrative remedy order**

(a) A licensee shall not be issued a renewal license until licensee has complied with all the provisions of the Final Administrative Order.

(b) In the event that the licensee has not timely complied with a Final Administrative Order, the Board Secretary may file a motion to enforce or initiate disciplinary action against a licensee.

## **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.

**"Distant site"** means the location of medical doctor providing care via telecommunications systems.

**"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.

**"Originating site"** means the location of the patient at the time the service being furnished via a telecommunications system occurs.

**"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 except as allowed in OAC 435:10-7-12 in this Subchapter. 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.

**"Telemedicine"** means the practice of healthcare delivery, diagnosis, consultation, treatment, including but not limited to, the treatment and prevention of conditions appropriate to treatment by telemedicine management, transfer of medical data, or exchange of medical education information by means of audio, video, or data communications. Telemedicine is not a consultation provided by telephone or facsimile machine (Oklahoma Statutes, Title 36, Sec. 6802). This definition excludes phone or Internet contact or prescribing and other forms of communication, such as web-based video, that might occur between parties that does not meet the equipment requirements as specified in OAC 435:10-7-13 and therefore requires an actual face-to-face encounter. Telemedicine physicians who meet the requirements of OAC 435:10-7-13 do not require a face to face encounter

[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; Amended at 31 Ok Reg 1975, eff 9-12-14]

### **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 requirements 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%) or the 3-digit minimum passing score scale as set by the USMLE program.

(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; Amended at 31 Ok Reg 1977, eff 9-12-14]

#### **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]

#### **435:10-7-12. Establishing a physician/patient relationship; exceptions**

A physician/patient relationship is 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, face-to-face encounter with the patient, subject to any supervisory responsibilities established elsewhere in these rules except the following providers are not subject to the face-to-face encounter:

- (1) Providers covering the practice of another provider may approve refills of previously ordered medications if they have access to the medical file of the patient.
- (2) Hospice medical directors may initiate prescriptions based on requests from licensed health care providers and on information from Hospice records.
- (3) Providers ordering appropriate medications for persons with laboratory-proven, sexually transmitted diseases and persons who have been in contact with certain infectious diseases.
- (4) Telemedicine physicians who meet the criteria set out in OAC 435:10-7-13 of this Subchapter.
- (5) Licensed healthcare providers providing medical immunizations, which may be implemented by means of standing order(s) and/or policies.
- (6) Licensed providers ordering opioid antagonists pursuant to 63 O.S. §1-2506.1.

[Source: Added at 31 Ok Reg , eff 12-3-13 (emergency); Added at 31 Ok Reg, eff 3-18-14 (emergency); Amended at 31 Ok Reg 1978, eff 9-12-14]



### **435:10-7-13. Telemedicine**

- (a) Physicians treating patients in Oklahoma through telemedicine must be fully licensed to practice medicine in Oklahoma; and
- (b) Must practice telemedicine in compliance with standards established in these rules. In order to be exempt from the face-to-face meeting requirement set out in these rules, the telemedicine encounter must meet the following:
  - (1) **Telemedicine encounters.** Telemedicine encounters require the distant site physician to perform an exam of a patient at a separate, remote originating site location. In order to accomplish this, and if the distant site physician deems it to be medically necessary, a licensed healthcare provider trained in the use of the equipment may be utilized at the originating site to “present” the patient, manage the cameras, and perform any physical activities to successfully complete the exam. A medical record must be kept and be accessible at both the distant and originating sites, preferably a shared Electronic Medical Record, that is full and complete and meets the standards as a valid medical record. There should be provisions for appropriate follow up care equivalent to that available to face-to-face patients. The information available to the distant site physician for the medical problem to be addressed must be equivalent in scope and quality to what would be obtained with an original or follow-up face-to-face encounter and must meet all applicable standards of care for that medical problem including the documentation of a history, a physical exam, the ordering of any diagnostic tests, making a diagnosis and initiating a treatment plan with appropriate discussion and informed consent.
  - (2) **Equipment and technical standards**
    - (A) Telemedicine technology must be sufficient to provide the same information to the provider as if the exam has been performed face-to-face.
    - (B) Telemedicine encounters must comply with HIPAA (Health Insurance Portability and Accountability Act of 1996) security measures to ensure that all patient communications and records are secure and remain confidential.
  - (3) **Technology guidelines**
    - (A) Audio and video equipment must permit interactive, real-time communications.
    - (B) Technology must be HIPAA compliant.
  - (4) **Board Approval of Telemedicine.** In the event a specific telemedicine program is outside the parameters of these rules, the Board reserves the right to approve or deny the program.

[Source: Added at 31 Ok Reg 1975, eff 9-12-14]

## **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) Absent Board determination of exceptional qualifications and need to warrant special licensure, 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 PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES 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 physician assistants pursuant to 59 O.S., §519 et seq., and advanced practice nurses with prescriptive authority pursuant to 59 O.S., §567.1 et seq.

#### **435:10-13-2. Eligibility to supervise physician assistants and advanced practice nurses with prescriptive authority**

(a) To be eligible to serve as supervising physician for physician assistants and/or advanced practice nurses 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 Physician Assistant Practice Act and 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 physician assistant's and/or advanced practice nurse's specialty.

(4) No physician shall supervise more than a total of six (6) physician assistants and/or advanced practice nurses regarding their prescriptive authority. 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.

## 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 micropigmentationologist.

[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 micropigmentationologist"** 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 micropigmentationologist 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 micropigmentationologists 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

435:10-19-2. Procedure for volunteer license

435:10-19-3. Annual renewal

### **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**

**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]