

**OKLAHOMA STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION
AGENCY RULE REPORT**

**TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION
CHAPTER 10. ADMINISTRATIVE REMEDIES**

DATE OF PUBLICATION OF NOTICE OF RULEMAKING INTENT IN OKLAHOMA REGISTER:

October 1, 2024

NAME AND ADDRESS OF AGENCY:

Oklahoma Board of Medical Licensure and Supervision

101 NE 51st Street, Oklahoma City, Oklahoma 73105

TITLE AND NUMBER OF RULE(S):

Subchapter 1. General Provisions

435:10-1-1. Purpose [AMENDED]

435:10-1-4. Definitions [AMENDED]

Subchapter 4. Application and Examination Procedures for Licensure as Physician and Surgeon

435:10-4-2. Board jurisdiction [AMENDED]

435:10-4-4. Application procedure [AMENDED]

435:10-4-5. Additional requirements for foreign medical school graduate applicants [AMENDED]

435:10-4-6. Medical licensure examination [AMENDED]

435:10-4-7. Licensure by endorsement [AMENDED]

435:10-4-8. Endorsement of certified applicants [REVOKED]

435:10-4-9. Board review of applications [AMENDED]

435:10-4-11. Written agreement [AMENDED]

Subchapter 5. Approval of Hospitals and Programs for Post-Graduate Training

435:10-5-1. Determination of hospitals and programs approved for post-graduate training [AMENDED]

435:10-5-2. Suspension from hospitals and programs approved [AMENDED]

Subchapter 7. Regulation of Physician and Surgeon Practice

435:10-7-1. Physicians dispensing dangerous drugs [AMENDED]

435:10-7-2. Use of Board certification [AMENDED]

435:10-7-4. Unprofessional conduct [AMENDED]

435:10-7-6. Retired physicians and surgeons [AMENDED]

435:10-7-7. Relocation of residence or practice [AMENDED]

435:10-7-9. Disposal of human tissue [AMENDED]

435:10-7-10. Annual reregistration [AMENDED]

435:10-7-11. Use of controlled substances for the management of chronic pain [AMENDED]

435:10-7-12. Establishing a physician/patient relationship; exceptions [AMENDED]

435:10-7-13. Telemedicine [AMENDED]

Subchapter 11. Temporary and Special Licensure

435:10-11-1. Purpose [AMENDED]

435:10-11-2. Procedure for temporary licensure [AMENDED]

435:10-11-3. Procedure for special licensure [AMENDED]

435:10-11-3.1. Special license for post-graduate training [AMENDED]

435:10-11-6. Change of supervisory medical doctor [REVOKED]

Subchapter 13. Supervision of Physician Assistants and Advanced Practice Registered Nurses with Prescriptive Authority [AMENDED]

435:10-13-2. Eligibility to supervise physician assistants and advanced practice registered nurses with prescriptive authority [AMENDED]

Subchapter 15. Continuing Medical Education

435:10-15-1. Continuing medical education [AMENDED]

Subchapter 19. Special Volunteer Medical License

435:10-19-3. Annual renewal [AMENDED]

AUTHORITY:

Title 59 O.S. § 519, et. seq.; Oklahoma State Board of Medical Licensure and Supervision

CITATION TO THE STATUTORY AUTHORITY FOR RULE(S):

Title 59 O.S. § 519, et. seq.; Oklahoma State Board of Medical Licensure and Supervision

CITATION TO STATE LAW REQUIRING THE RULE:

Title 59 O.S. § 519, et. seq.; Oklahoma State Board of Medical Licensure and Supervision

BRIEF SUMMARY OF THE CONTENT OF THE ADOPTED RULE(S):

The proposed rules add definitions to rules pursuant to SB 674 signed May 5, 2021, for remote patient monitoring and telemedicine. The proposed rules also clean up references to the Board jurisdiction for licensing and the application procedure which are obsolete. Licensure for graduates of foreign medical schools is modernized to remove the use of translators being provided by the Board. Other obsolete references to requiring foreign medical school graduates to score ten (10) percentage points higher on a medical exam and submit a tape recording of the applicant communicating in English. Medical licensure examination proposed rules are removing outdated references to submissions of examinations by the Board which are no longer administered. The references to USMLE Step 2 Clinical Knowledge and Step 2 Clinical Skills tests are updated to reflect Step 2 Clinical Skills is no longer offered by USMLE. The proposed rules revoke the endorsement of certified applicants which is not statutory. The amendments also authorize any Board member to request additional information from an applicant. The proposed rules also clarify that a special training license shall be required to practice in a hospital or program. The amendments also update statutory reference to physicians dispensing dangerous drugs and remove references to registration with the Board that are not present in statute. The proposed rules also add clarification for allopathic physicians seeking to use Board Certification by outlining the approval process, citing to the existing fee for the request and requiring an appearance before the Board. The amendments add to the authority of the Board to revoke or discipline a licensee for “unprofessional conduct” for engaging in physician conduct with a patient which is sexual in nature or any verbal behavior which is seductive or sexually demeaning to a patient. The amendments further add to the authority of the Board to revoke or discipline a licensee for “unprofessional conduct” for failing to supervise, delegate or oversee appropriately as required by the Board’s laws and rules. The amendments remove an unnecessary reference in the rules for retired physicians and surgeons. The proposed rules further add to the requirements for relocations of the practice address to include a valid electronic email address. The amendments remove an obsolete reference to the proration of annual registration of fees and the Board not hearing extension requests. The proposed rulemaking updates the rules for physicians’ usage of controlled dangerous substances for the management of chronic pain to reflect statutes updated in HB 3567 effective May 15, 2024. The amendments add language to the exceptions for establishing a physician patient relationship for the purpose of providing expedited partner therapy pursuant to statute changes SB 1491 signed May 28, 2024. The proposed rules update language for the usage of Telemedicine pursuant to law changes in SB 674 signed May 5, 2021 and updating the technology guidelines to comport with current federal law regarding privacy of patient records. The amendments clarify the discretion of the Board Secretary to extend a temporary license for allopathic physicians until a future Board meeting. The proposed rulemaking clarifies the procedure for an allopathic physician to obtain a special license from the Board. The amendments modernize the requirements for special training license for post graduate

training. The proposed rules revoke the change in supervisory medical doctors for allopathic physicians that are granted a special license. The amendments address the eligibility of delegating physicians to physician assistants and advance practice registered nurses to more closely align with statute, clarify references to other state laws, rules and policies. References to the delegating physician requirements proposed in this section on physicians and in other proposed rulemaking has been removed in the section for physician assistants to remove any confusion as to which section controls. The amendments also clean up the continuing medical education compliant organizations and timeframe for compliance.

STATEMENT EXPLAINING THE NEED FOR ADOPTED RULE(S):

The Oklahoma Board of Medical Licensure and Supervision believes the proposed rule revisions are necessary to best protect the public while bringing the rules into harmony with current law.

DATE AND LOCATION OF THE MEETING, IF HELD, AT WHICH RULE(S) WERE ADOPTED:

November 21, 2024, at 9:00 a.m. at the Oklahoma State Board of Medical Licensure and Supervision, 101 NE 51st Street, Oklahoma City, Oklahoma.

PUBLIC COMMENT, RULE CHANGES BASED ON COMMENTS AND PERSONS APPEARING TO SUPPORT OR OPPOSE THE PROPOSED RULES:

The public comment period ran from October 1, 2024 through November 1, 2024, and the public hearing was held on November 5, 2024 at 2:00 p.m. at the Oklahoma State Board of Medical Licensure and Supervision, 101 NE 51st Street, Oklahoma City, Oklahoma. Three written public comments were received.

Upon the advice of Board Legal Advisor, Okla. Admin. Code 435:10-4-4(l) was amended to allow applicants to withdraw an application for licensure at any time prior to a final decision of the Board. This advised amendment was voted on separately and the vote is recorded below:

Mr. Trevor Nutt, President:	Aye
Ross Vanhooser, MD, Vice-President:	NO
Mr. Clay Bullard:	Aye
Susan Chambers, MD:	Aye
Louis Cox, MD:	Aye
Mr. Jeremy Hall:	NO
Tim Holder, MD:	Aye
Steven Katsis, MD:	Aye
Ms. Bridget Keast:	Aye
Jessica Keller, MD:	Aye
Don Wilber, MD:	Aye

The motion to accept this amendment carried.

Upon the advice of Board Legal Advisor, scrivener’s errors in 435:1-4-6(b) and 435:10-4-6(e) (3) were corrected.

Upon the advice of Board Legal Advisor, the language in 435:10-4-6(d) was restored and the following sentence was added, “However, the Board may review exception requests on a case by case basis.” This advised amendment was voted on separately and the vote is recorded below:

Mr. Trevor Nutt, President:	Aye
Ross Vanhooser, MD, Vice-President:	NO
Mr. Clay Bullard:	Aye
Susan Chambers, MD:	Aye
Louis Cox, MD:	Aye

Mr. Jeremy Hall:	Aye
Tim Holder, MD:	Aye
Steven Katsis, MD:	Aye
Ms. Bridget Keast:	Aye
Jessica Keller, MD:	Aye
Don Wilber, MD:	Aye

The motion to accept the amendment carried.

Upon the advice of Board Legal Advisor, the second sentence in 435:10-4-7(b) was restored and the following sentence was added, “However, the Board may review exception requests on a case by case basis.” This amendment was voted on separately and the vote is recorded below:

Mr. Trevor Nutt, President:	Aye
Ross Vanhooser, MD, Vice-President:	NO
Mr. Clay Bullard:	Aye
Susan Chambers, MD:	Aye
Louis Cox, MD:	Aye
Mr. Jeremy Hall:	Aye
Tim Holder, MD:	Aye
Steven Katsis, MD:	Aye
Ms. Bridget Keast:	Aye
Jessica Keller, MD:	Aye
Don Wilber, MD:	Aye

The motion to accept the amendment carried.

Upon the advice of Board Legal Advisor, the proposed amendment adding “American Board of Physician Specialties (ABPS)” was deleted in 435:10-7-2 and two scrivener’s errors were corrected. Upon the advice of Board Legal Advisor, a scrivener’s error in 435:10-7-4 was corrected. And finally, upon the advice of Board Legal Advisor, the word “communications” was restored in 435:10-7-13(3)(A); 435:10-7-13(a) was amended to read “Holds a license to practice medicine in this state,” and a scrivener’s error in 435:10-7-13(3) was corrected. These amendments were voted on separately and the vote is recorded below:

Mr. Trevor Nutt, President:	Aye
Ross Vanhooser, MD, Vice-President:	Aye
Mr. Clay Bullard:	Aye
Susan Chambers, MD:	Aye
Louis Cox, MD:	Aye
Mr. Jeremy Hall:	Aye
Tim Holder, MD:	Aye
Steven Katsis, MD:	Aye
Ms. Bridget Keast:	Aye
Jessica Keller, MD:	Aye
Don Wilber, MD:	Aye

The motion to accept these amendments carried.

Upon the advice of Board Legal Advisor, scrivener’s errors were corrected in 435:10-11-2(c) and 435:10-11-3(a). These amendments were voted on separately and the vote is recorded below:

Mr. Trevor Nutt, President:	Aye
Ross Vanhooser, MD, Vice-President:	Aye
Mr. Clay Bullard:	Aye

Susan Chambers, MD:	Aye
Louis Cox, MD:	Aye
Mr. Jeremy Hall:	Aye
Tim Holder, MD:	Aye
Steven Katsis, MD:	Aye
Ms. Bridget Keast:	Aye
Jessica Keller, MD:	Aye
Don Wilber, MD:	Aye

The motion to accept these amendments carried.

Upon the advice of Board Legal Counsel, scrivener’s errors were corrected in Okla. Admin. Code 435:10-13-2(a)(1) and (a)(2), 435:10-13-(a)(1)(A). Upon the advice of Board Legal Advisor, 435:10-13-2(a)(1) was amended to state a “delegating physician must have a license in good standing” and to strike “full unrestricted license.” And, finally, upon public written comment received from the Oklahoma Academy of Physician Associates, new language was added at 435:10-13-2(a)(1)(B). These amendments were voted on separately and the vote is recorded below:

Mr. Trevor Nutt, President:	Aye
Ross Vanhooser, MD, Vice-President:	Aye
Mr. Clay Bullard:	Aye
Susan Chambers, MD:	Aye
Louis Cox, MD:	Aye
Mr. Jeremy Hall:	Aye
Tim Holder, MD:	Aye
Steven Katsis, MD:	Aye
Ms. Bridget Keast:	Aye
Jessica Keller, MD:	Aye
Don Wilber, MD:	Aye

The motion to accept these amendments carried.

LIST OF PERSONS/ORGANIZATIONS WHO APPEARED OR REGISTERED FOR OR AGAINST THE ADOPTED RULE OR WHO HAVE COMMENTED IN WRITING BEFORE OR AFTER THE HEARING:

Oklahoma Academy of Physician Associates: Seeking amendment by adding new language at Okla. Admin. Code 435:10-13-2(a)(1)(B) and delete the limit of PAs to which a physician can delegate. The Board adopted the new language and did not adopt the second request since the Board has previously been advised that a ratio is required by statute.

ATA Action – Telehealth Policy to Transform Healthcare: In support of the proposed rules.

Oklahoma State Medical Association: Seeking amendment to restore language requiring a 10-year passage limit on the national medical examinations and offered additional language. The Board adopted amendment at 435:10-4-6(d) and 435:10-4-7(b)

RULE IMPACT STATEMENT:

See attached.

MEMBERS OF THE OKLAHOMA BOARD OF MEDICAL LICENSURE AND SUPERVISION FOR ADOPTION OF PROPOSED RULES WITH AMENDMENTS THERETO AND INDIVIDUAL VOTES:

Mr. Trevor Nutt, President:	Aye
Ross Vanhooser, MD, Vice-President:	Aye
Mr. Clay Bullard:	Aye

Susan Chambers, MD:	Aye
Louis Cox, MD:	Aye
Mr. Jeremy Hall:	Aye
Tim Holder, MD:	Aye
Steven Katsis, MD:	Aye
Ms. Bridget Keast:	Aye
Jessica Keller, MD:	Aye
Don Wilber, MD:	Aye

PROPOSED EFFECTIVE DATE OF THE RULE(S): Ten (10) days after publication in *The Oklahoma Register*.

OTHER INFORMATION REQUESTED BY THE GOVERNOR:

N/A

OTHER INFORMATION REQUESTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE PRESIDENT PRO TEMPORE, OR EITHER RULE REVIEW COMMITTEE:

N/A

**RULE IMPACT STATEMENT
PROPOSED PERMANENT RULES**

**TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION
CHAPTER 10. PHYSICIANS AND SURGEONS**

PROPOSED RULES:

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PURPOSE OF PROPOSED RULES:

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requirements proposed in this section on physicians and in other proposed rulemaking has been removed in the section for physician assistants to remove any confusion as to which section controls. The amendments also clean up the continuing medical education compliant organizations and timeframe for compliance.

CLASSES AFFECTED:

The classes of persons most likely to be affected by the proposed amendments are the Board, the Board's staff, applicants for licenses, and licensees of the Oklahoma State Board of Medical Licensure and Supervision.

PERSONS BENEFITTED:

The classes of persons most likely to benefit from the proposed amendments are the Board, the Board's staff, and licensees of the Oklahoma State Board of Medical Licensure and Supervision.

PROBABLE ECONOMIC IMPACT:

1. On affected classes: There will be little or no impact due to the proposed changes in these rules.
2. On political subdivision: There will be little or no impact due to the proposed changes in these rules.
3. Fees: There will be little or no impact due to the proposed changes in these rules.

PROBABLE COST TO THE AGENCY:

Minimal administrative only. No additional personnel or budget expenses are anticipated.

WILL THE RULES IMPACT POLITICAL SUBDIVISIONS:

No economic impact, or a need for cooperation from political subdivisions, is anticipated.

SMALL BUSINESS IMPACT:

There is no anticipated adverse impact on small business, with reference to Sections 303(A)(4) and 303(B)(6) of the APA.

ALTERNATIVE METHODS AND COSTS OF COMPLIANCE:

There are no apparent alternative methods for compliance. The Agency does not anticipate any additional costs of administration due to implementation of these rule changes.

PUBLIC HEALTH/ SAFETY CONCERNS:

There will be no adverse impact or concerns with public health, safety or environment that will result for these proposed rule changes.

Prepared September 30, 2024

Amended November 22, 2024