

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

**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.

~~**"Doctor-patient relationship"** means a person has a medical complaint/issue, which has been addressed by the doctor and there is a correlation between the complaint/issue and the treatment/procedure performed or drug given/prescribed/dispensed.~~

**"Foreign applicant"** means an applicant who is a graduate of a foreign medical school.

**"Foreign medical school"** means a medical school located outside of the United States.

**"Patient"** means the patient and/or patient surrogate.

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

**"Secretary"** means the Secretary of the Board.

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

**"Surrogate"** means individuals closely involved in patients' medical decision-making and care and include:

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

**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) – (48) No change.

(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.

## **RULE IMPACT STATEMENT**

The proposed amendments clarify the definition of a physician/patient relationship and add to the rules of unprofessional conduct failure to establish an appropriate relationship prior to treating a patient.

The classes of persons who most likely will be affected by the proposed rule are the medical doctors in the state and their patients, who will benefit by having guidelines on when and how a physician/patient relationship is established.

There will be no fee changes associated with this rule.

There will be no added cost to this agency or any other agency in implementing and enforcing this rule.

Implementation of the proposed rule will not have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule,

It has not been found that implementation of the proposed rule will have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act,

There are no less costly or non-regulatory methods or less intrusive methods for achieving the purpose of the proposed rule,

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**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

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

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

**SUMMARY:**

The proposed amendments clarify the definition of a physician/patient relationship and add to the rules of unprofessional conduct failure to establish an appropriate relationship prior to treating a patient.

**AUTHORITY:**

TITLE 59 O.S., Section 489, State Board of Medical Licensure and Supervision

**COMMENT PERIOD:**

The comment period will run from October 1, 2009 to November 13, 2009. Written comments may be sent to the office of the Board, PO Box 18256, Oklahoma City, OK 73154.

**PUBLIC HEARING:**

A public hearing will be held to provide an opportunity for persons to orally present their views on November 19, 2009, 9:00 a.m. at the office of the Board, 101 NE 51<sup>st</sup> Street, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than November 13, 2009.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma.

**RULE IMPACT STATEMENT:**

A rule impact statement will be prepared and available after October 1, 2009 at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma 73118.

**CONTACT PERSON:**

Kathy Plant, Executive Secretary (405) 848-6841, ext. 122