

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2867

By: Wallace of the House

and

**Rosino** of the Senate

8  
9                                   COMMITTEE SUBSTITUTE

10                   An Act relating to professions and occupations;  
11                   amending 59 O.S. 2021, Section 509, which relates to  
12                   unprofessional conduct; adding a provision of  
13                   unprofessional conduct; and providing an effective  
14                   date.

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

16                   SECTION 1.           AMENDATORY           59 O.S. 2021, Section 509, is  
17 amended to read as follows:

18                   Section 509. The words "unprofessional conduct" as used in  
19 Sections 481 through 518.1 of this title are hereby declared to  
20 include, but shall not be limited to, the following:

- 21                   1. Procuring, aiding or abetting a criminal operation;
- 22                   2. The obtaining of any fee or offering to accept any fee,  
23 present or other form of remuneration whatsoever, on the assurance  
24 or promise that a manifestly incurable disease can or will be cured;

1 3. Willfully betraying a professional secret to the detriment  
2 of the patient;

3 4. Habitual intemperance or the habitual use of habit-forming  
4 drugs;

5 5. Conviction or confession of, or plea of guilty, nolo  
6 contendere, no contest or Alford plea to a felony or any offense  
7 involving moral turpitude;

8 6. All advertising of medical business in which statements are  
9 made which are grossly untrue or improbable and calculated to  
10 mislead the public;

11 7. Conviction or confession of, or plea of guilty, nolo  
12 contendere, no contest or Alford plea to a crime involving violation  
13 of:

14 a. the antinarcotic or prohibition laws and regulations  
15 of the federal government,

16 b. the laws of this state,

17 c. State Commissioner of Health rules, or

18 d. a determination by a judge or jury;

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

21 9. The commission of any act which is a violation of the  
22 criminal laws of any state when such act is connected with the  
23 physician's practice of medicine. A complaint, indictment or  
24 confession of a criminal violation shall not be necessary for the

1 enforcement of this provision. Proof of the commission of the act  
2 while in the practice of medicine or under the guise of the practice  
3 of medicine shall be unprofessional conduct;

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

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

9 12. Prescribing or administering a drug or treatment without  
10 sufficient examination and the establishment of a valid physician-  
11 patient relationship and not prescribing in a safe, medically  
12 accepted manner;

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

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

20 15. The inability to practice medicine with reasonable skill  
21 and safety to patients by reason of age, illness, drunkenness,  
22 excessive use of drugs, narcotics, chemicals, or any other type of  
23 material or as a result of any mental or physical condition. In  
24 enforcing this section the State Board of Medical Licensure and

1 Supervision may, upon probable cause, request a physician to submit  
2 to a mental or physical examination by physicians designated by it.  
3 If the physician refuses to submit to the examination, the Board  
4 shall issue an order requiring the physician to show cause why the  
5 physician will not submit to the examination and shall schedule a  
6 hearing on the order within thirty (30) days after notice is served  
7 on the physician, exclusive of the day of service. The physician  
8 shall be notified by either personal service or by certified mail  
9 with return receipt requested. At the hearing, the physician and  
10 the physician's attorney are entitled to present any testimony and  
11 other evidence to show why the physician should not be required to  
12 submit to the examination. After a complete hearing, the Board  
13 shall issue an order either requiring the physician to submit to the  
14 examination or withdrawing the request for examination. The medical  
15 license of a physician ordered to submit for examination may be  
16 suspended until the results of the examination are received and  
17 reviewed by the Board;

18 16. a. Prescribing, dispensing or administering of controlled  
19 substances or narcotic drugs in excess of the amount  
20 considered good medical practice,

21 b. Prescribing, dispensing or administering controlled  
22 substances or narcotic drugs without medical need in  
23 accordance with pertinent licensing board standards,  
24 or

1 c. Prescribing, dispensing or administering opioid drugs  
2 in excess of the maximum limits authorized in Section  
3 2-309I of Title 63 of the Oklahoma Statutes;

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

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

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

14 20. Performance of an abortion as defined by Section 1-730 of  
15 Title 63 of the Oklahoma Statutes, except for an abortion necessary  
16 to prevent the death of the mother or to prevent substantial or  
17 irreversible physical impairment of the mother that substantially  
18 increases the risk of death. The performance of an abortion on the  
19 basis of the mental or emotional health of the mother shall be a  
20 violation of this paragraph, notwithstanding a claim or diagnosis  
21 that the woman may engage in conduct which she intends to result in  
22 her death. The Board shall impose a penalty as provided in Section  
23 509.1 of this title on a licensee who violates this paragraph. The  
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1 penalty shall include, but not be limited to, suspension of the  
2 license for a period of not less than one (1) year; ~~or~~

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

10 22. Failure to administer or order a test or screening of a  
11 tick-borne disease when a patient requests the test or screening and  
12 the test or screening is covered by insurance or the patient is  
13 willing to pay for the test or screening out-of-pocket.

14 SECTION 2. This act shall become effective November 1, 2023.

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16 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated  
17 02/23/2023 - DO PASS, As Amended and Coauthored.

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