

1 **SENATE FLOOR VERSION**

2 April 4, 2024

3 ENGROSSED HOUSE
4 BILL NO. 3035

By: Stinson of the House

5 and

6 Garvin of the Senate

7
8 An Act relating to professions and occupations;
9 amending 59 O.S. 2021, Sections 488, 493.3, 512, 513,
10 and 518.1, which relate to the Oklahoma Allopathic
11 Medical and Surgical Licensure and Supervision Act;
12 clarifying when the State Board of Medical Licensure
13 and Supervision meets; modifying terms related to
14 issuance of licenses; modifying investigator duties;
15 expanding applicability to inactive physicians or
16 surgeons; modifying executive director duties; and
17 providing an effective date.

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

19 SECTION 1. AMENDATORY 59 O.S. 2021, Section 488, is
20 amended to read as follows:

21 Section 488. A. The State Board of Medical Licensure and
22 Supervision may hold regular meetings at times to be fixed by the
23 president and secretary of the Board in accordance with the
24 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

1 the transaction of business but a less number may adjourn from time
2 to time until a quorum is present.

3 B. No meeting as provided for in subsection A of this section
4 shall be required for the determination of the qualifications of an
5 applicant for a certificate or license issued ~~pursuant to the~~
6 ~~provisions of Section 495 of this title~~ for all licenses under the
7 legislative jurisdiction of the Board. Each member of the Board
8 authorized to vote on licensure may review the qualifications of the
9 applicant during times other than when a regular or special meeting
10 is held, to determine the sufficiency of said qualifications. Each
11 member shall notify the secretary of his findings, in writing. The
12 provisions of this subsection shall not be construed to prohibit the
13 Board from reviewing the qualifications of an applicant for
14 licensure during any regular or special meeting of the Board.

15 SECTION 2. AMENDATORY 59 O.S. 2021, Section 493.3, is
16 amended to read as follows:

17 Section 493.3 A. Endorsement of licensed applicants: The
18 State Board of Medical Licensure and Supervision may issue a license
19 by endorsement to an applicant who:

20 1. Has complied with all current medical licensure requirements
21 except those for examination; and

22 2. Has passed a medical licensure examination given in English
23 in another state, the District of Columbia, a territory or
24 possession of the United States, or Canada, or has passed the

1 National Boards Examination administered by the National Board of
2 Medical Examiners, provided the Board determines that such
3 examination was equivalent to the Board's examination used at the
4 time of application.

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

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

21 1. Be granted only to an applicant demonstrably qualified for a
22 full and unrestricted medical license under the requirements set by
23 the Oklahoma Allopathic Medical and Surgical Licensure and
24 Supervision Act and the rules of the Board; and

1 2. Automatically terminate on the date of the next Board
2 meeting at which the applicant may be considered for a full and
3 unrestricted medical license.

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

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

12 SECTION 3. AMENDATORY 59 O.S. 2021, Section 512, is
13 amended to read as follows:

14 Section 512. A. The secretary of the State Board of Medical
15 Licensure and Supervision shall be paid an annual salary in an
16 amount fixed by the Board. The Board shall have the authority to
17 expend such funds as are necessary in carrying out the duties of the
18 Board and shall have the authority to hire all necessary personnel,
19 at salaries to be fixed by the Board, as the Board shall deem
20 necessary. The Board shall have the authority to hire attorneys to
21 represent the Board in all legal matters and to assist authorized
22 state and county officers in prosecuting or restraining violations
23 of Section 481 et seq. of this title, and to fix the salaries or per
24 diem of the attorneys.

1 B. The Board shall have the authority to hire one or more
2 investigators as may be necessary to carry out the provisions of the
3 Oklahoma Allopathic Medical and Surgical Licensure and Supervision
4 Act at an annual salary to be fixed by the Board. Such
5 investigators may be commissioned peace officers of this state. ~~In~~
6 ~~addition such investigators shall have the authority and duty to~~
7 ~~investigate and inspect the records of all persons in order to~~
8 ~~determine whether or not a disciplinary action for unprofessional~~
9 ~~misconduct is warranted or whether the narcotic laws or the~~
10 ~~dangerous drug laws have been complied with.~~

11 C. 1. For purposes of this section, investigators at least one
12 investigator shall be a peace officers officer certified by the
13 Council on Law Enforcement Education and Training and shall have
14 statewide jurisdiction to perform the duties authorized by this
15 section. In addition, the investigators shall have all the powers
16 now or hereafter vested by law in peace officers. In addition, such
17 investigators shall have the authority and duty to investigate and
18 inspect the records of all persons including, but not limited to,
19 personnel records of the licensee in order to determine:

- 20 a. whether or not a disciplinary action for
21 unprofessional misconduct is warranted, or
22 b. whether the narcotic laws or the dangerous drug laws
23 have been complied with.
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1 2. Investigators for the Oklahoma State Board of Medical
2 Licensure and Supervision shall perform such services as are
3 necessary in the investigation of criminal activity or preparation
4 of administrative actions.

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

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

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

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

4 SECTION 4. AMENDATORY 59 O.S. 2021, Section 513, is
5 amended to read as follows:

6 Section 513. A. 1. The State Board of Medical Licensure and
7 Supervision is hereby given quasi-judicial powers while sitting as a
8 Board for the purpose of revoking, suspending or imposing other
9 disciplinary actions upon the license of physicians or surgeons of
10 this state, and appeals from its decisions shall be taken to the
11 Supreme Court of this state within thirty (30) days of the date that
12 a copy of the decision is mailed to the appellant, as shown by the
13 certificate of mailing attached to the decision.

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

20 3. Upon proof of a felony conviction by the courts, the Board
21 shall revoke the physician's license. If the felony conviction is
22 overturned on appeal and no other appeals are sought, the Board
23 shall restore the license of the physician. Court records of such a
24 conviction shall be prima facie evidence of the conviction.

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

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

14 C. This section shall also apply to physicians or surgeons of
15 this state who are in an inactive status.

16 SECTION 5. AMENDATORY 59 O.S. 2021, Section 518.1, is
17 amended to read as follows:

18 Section 518.1 A. There is hereby established the Allied
19 Professional Peer Assistance Program to rehabilitate allied medical
20 professionals whose competency may be compromised because of the
21 abuse of drugs or alcohol, so that such allied medical professionals
22 can be treated and can return to or continue the practice of allied
23 medical practice in a manner which will benefit the public. The
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1 program shall be under the supervision and control of the State
2 Board of Medical Licensure and Supervision.

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

15 C. The Board may appoint and employ a qualified person or
16 persons to serve as program coordinators and shall fix such person's
17 compensation. The program may employ a director for purposes of
18 ongoing nonclerical administrative duties and shall fix the
19 director's compensation. The Board shall define the duties of the
20 program coordinators and director who shall report directly to the
21 Board.

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

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

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

11 G. Records and management information system of the
12 professionals enrolled in the Allied Professional Peer Assistance
13 Program and reports shall be maintained in the program office in a
14 place separate and apart from the records of the Board. The records
15 shall be made public only by subpoena and court order; provided
16 however, confidential treatment shall be cancelled upon default by
17 the professional in complying with the requirements of the program.

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

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

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

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

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

20 1. "Board" means the State Board of Medical Licensure and
21 Supervision; and

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

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

7 SECTION 6. This act shall become effective November 1, 2024.

8 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
9 April 4, 2024 - DO PASS

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