

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1148

By: Crain

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6 AS INTRODUCED

7 An Act relating to the Oklahoma Allopathic Medical  
8 and Surgical Licensure and Supervision Act; amending  
9 59 O.S. 2011, Section 492, which relates to the  
10 practice of medicine and surgery; amending 59 O.S.  
11 2011, Section 622, as amended by Section 1, Chapter  
83, O.S.L. 2014 (59 O.S. Supp. 2015, Section 622),  
which relates to physician licensure; prohibiting  
certain construction; providing definitions; and  
providing an effective date.

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

15 SECTION 1. AMENDATORY 59 O.S. 2011, Section 492, is  
16 amended to read as follows:

17 Section 492. A. Every person shall be regarded as practicing  
18 allopathic medicine within the meaning and provisions of this act,  
19 who shall append to his or her name the letters "M.D.", "Physician"  
20 or any other title, letters or designation which represent that such  
21 person is a physician, or who shall for a fee or any form of  
22 compensation diagnose and/or treat disease, injury or deformity of  
23 persons in this state by any allopathic legend drugs, surgery,  
24 manual, or mechanical treatment unless otherwise authorized by law.

1 B. A hospital or related institution as such terms are defined  
2 in Section 1-701 of Title 63 of the Oklahoma Statutes, which has the  
3 principal purpose or function of providing hospital or medical care,  
4 including but not limited to any corporation, association, trust, or  
5 other organization organized and operated for such purpose, may  
6 employ one or more persons who are duly licensed to practice  
7 medicine in this state without being regarded as itself practicing  
8 medicine within the meaning and provisions of this section. The  
9 employment by the hospital or related institution of any person who  
10 is duly licensed to practice medicine in this state shall not, in  
11 and of itself, be considered as an act of unprofessional conduct by  
12 the person so employed. Nothing provided herein shall eliminate,  
13 limit, or restrict the liability for any act or failure to act of  
14 any hospital, any hospital's employees, or persons duly licensed to  
15 practice medicine.

16 C. The definition of the practice of medicine and surgery shall  
17 include, but is not limited to:

18 1. Advertising, holding out to the public, or representing in  
19 any manner that one is authorized to practice medicine and surgery  
20 in this state;

21 2. Any offer or attempt to prescribe, order, give, or  
22 administer any drug or medicine and surgery for the use of any other  
23 person, except as otherwise authorized by law;

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1 3. a. ~~Any~~ any offer or attempt, except as otherwise  
2 authorized by law, to prevent, diagnose, correct, or  
3 treat in any manner or by any means, methods, devices,  
4 or instrumentalities except for manual manipulation  
5 any disease, illness, pain, wound, fracture,  
6 infirmity, defect, or abnormal physical or mental  
7 condition of any person, including the management of  
8 pregnancy and parturition, except as otherwise  
9 authorized by law~~.,~~

10 b. ~~Except~~ except as provided in subsection D of this  
11 section, performance by a person within or outside of  
12 this state, through an ongoing regular arrangement, of  
13 diagnostic or treatment services, including but not  
14 limited to, stroke prevention and treatment, through  
15 electronic communications for any patient whose  
16 condition is being diagnosed or treated within this  
17 state by a physician duly licensed and practicing in  
18 this state. A person who performs any of the  
19 functions covered by this subparagraph submits himself  
20 or herself to the jurisdiction of the courts of this  
21 state for the purposes of any cause of action  
22 resulting from the functions performed~~.,~~ and

23 c. ~~Nothing~~ nothing in the Oklahoma Allopathic Medical and  
24 Surgical Licensure and Supervision Act shall be

1 construed to affect or give jurisdiction to the Board  
2 over any person other than medical doctors or persons  
3 holding themselves out as medical doctors;

4 4. Any offer or attempt to perform any surgical operation upon  
5 any person, except as otherwise authorized by law; and

6 5. The use of the title Doctor of Medicine, Physician, Surgeon,  
7 Physician and Surgeon, Dr., M.D. or any combination thereof in the  
8 conduct of any occupation or profession pertaining to the  
9 prevention, diagnosis, or treatment of human disease or condition  
10 unless, where appropriate, such a designation additionally contains  
11 the description of another branch of the healing arts for which one  
12 holds a valid license in this state.

13 D. The practice of medicine and surgery, as defined in this  
14 section, shall not include:

15 1. A student while engaged in training in a medical school  
16 approved by the Board or while engaged in graduate medical training  
17 under the supervision of the medical staff of a hospital or other  
18 health care facility approved by the state medical board for such  
19 training, except that a student engaged in graduate medical training  
20 shall hold a license issued by the Board for such training;

21 2. Any person who provides medical treatment in cases of  
22 emergency where no fee or other consideration is contemplated,  
23 charged or received;

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1           3. A commissioned medical officer of the armed forces of the  
2 United States or medical officer of the United States Public Health  
3 Service or the Department of Veterans Affairs of the United States  
4 in the discharge of official duties and/or within federally  
5 controlled facilities; and provided that such person shall be fully  
6 licensed to practice medicine and surgery in one or more  
7 jurisdictions of the United States; provided further that such  
8 person who holds a medical license in this state shall be subject to  
9 the provisions of the Oklahoma Allopathic Medical and Surgical  
10 Licensure and Supervision Act;

11           4. Any person licensed under any other act when properly  
12 practicing in the healing art for which that person is duly  
13 licensed;

14           5. The practice of those who endeavor to prevent or cure  
15 disease or suffering by spiritual means or prayer;

16           6. Any person administering a domestic or family remedy to a  
17 member of such person's own family;

18           7. Any person licensed to practice medicine and surgery in  
19 another state or territory of the United States who renders  
20 emergency medical treatment or briefly provides critical medical  
21 service at the specific lawful direction of a medical institution or  
22 federal agency that assumes full responsibility for that treatment  
23 or service and is approved by the Board;

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1           8. Any person who is licensed to practice medicine and surgery  
2 in another state or territory of the United States whose sole  
3 purpose and activity is limited to brief actual consultation with a  
4 specific physician who is licensed to practice medicine and surgery  
5 by the Board, other than a person with a special or restricted  
6 license; or

7           9. The practice of any other person as licensed by appropriate  
8 agencies of this state, provided that such duties are consistent  
9 with the accepted standards of the person's profession and the  
10 person does not represent himself or herself as a Doctor of  
11 Medicine, Physician, Surgeon, Physician and Surgeon, Dr., M.D., or  
12 any combination thereof.

13           E. Nothing in the Oklahoma Allopathic Medical and Surgical  
14 Licensure and Supervision Act shall prohibit:

15           1. The service rendered by a physician's unlicensed trained  
16 assistant, if such service is rendered under the supervision and  
17 control of a licensed physician pursuant to Board rules, provided  
18 such rules are not in conflict with the provisions of any other  
19 healing arts licensure act or rules promulgated pursuant to such  
20 act; or

21           2. The service of any other person duly licensed or certified  
22 by the state to practice the healing arts.

23           F. Nothing in the Oklahoma Allopathic Medical and Surgical  
24 Licensure and Supervision Act shall prohibit services rendered by

1 any person not licensed by the Board and practicing any  
2 nonallopathic healing practice.

3 G. Nothing in the Oklahoma Allopathic Medical and Surgical  
4 Licensure and Supervision Act shall be construed as to require a  
5 physician to secure a Maintenance of Certification (MOC) as a  
6 condition of licensure, reimbursement, employment or admitting  
7 privileges at a hospital in this state. For the purposes of this  
8 subsection, "Maintenance of Certification (MOC)" shall mean a  
9 continuing education program measuring core competencies in the  
10 practice of medicine and surgery and approved by a nationally-  
11 recognized accrediting organization.

12 SECTION 2. AMENDATORY 59 O.S. 2011, Section 622, as  
13 amended by Section 1, Chapter 83, O.S.L. 2014 (59 O.S. Supp. 2015,  
14 Section 622), is amended to read as follows:

15 Section 622. A. 1. Except as otherwise provided by this  
16 section, it shall be unlawful for any person to practice as an  
17 osteopathic physician and surgeon in this state, without a license  
18 to do so, issued by the State Board of Osteopathic Examiners;  
19 provided, that any license or certificate issued under the laws of  
20 this state, authorizing its holder to practice osteopathic medicine,  
21 shall remain in full force and effect. Persons who hold themselves  
22 out as osteopathic physicians in this state without a license issued  
23 by the State Board of Osteopathic Examiners submit themselves to the  
24 jurisdiction of the State Board of Osteopathic Examiners.

1           2. Osteopathic physicians engaged in postgraduate training  
2 beyond the internship year, also known as PGY-1, shall be licensed.  
3 Osteopathic physicians engaged in the internship or PGY-1 year may  
4 be eligible for a resident training license.

5           3. Osteopathic physicians engaged in interventional pain  
6 management pursuant to the Oklahoma Interventional Pain Management  
7 and Treatment Act shall be licensed by the State Board of  
8 Osteopathic Examiners.

9           B. 1. A person within or outside of this state who performs  
10 through electronic communications diagnostic or treatment services  
11 within the scope of practice of an osteopathic physician and  
12 surgeon, including but not limited to, stroke prevention and  
13 treatment, for any patient whose condition is being diagnosed or  
14 treated within this state shall be licensed in this state, pursuant  
15 to the provisions of the Oklahoma Osteopathic Medicine Act.  
16 However, in such cases, a nonresident osteopathic physician who,  
17 while located outside this state, consults on an irregular basis  
18 with a physician who is located in this state is not required to be  
19 licensed in this state.

20           2. Any osteopathic physician licensed in this state who engages  
21 in the prescription of drugs, devices, or treatments via electronic  
22 means may do so only in the context of an appropriate  
23 physician/patient relationship wherein a proper patient record is  
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1 maintained including, at the minimum, a current history and  
2 physical.

3 3. Any commissioned medical officer of the armed forces of the  
4 United States or medical officer of the United States Public Health  
5 Service or the Veterans Administration of the United States, in the  
6 discharge of official duties and/or within federally controlled  
7 facilities, who is fully licensed to practice osteopathic medicine  
8 and surgery in one or more jurisdictions of the United States shall  
9 not be required to be licensed in this state pursuant to the  
10 Oklahoma Osteopathic Medicine Act, unless the person already holds  
11 an osteopathic medical license in this state pursuant to the  
12 Oklahoma Osteopathic Medicine Act. In such case, the medical  
13 officer shall be subject to the Oklahoma Osteopathic Medicine Act.

14 4. A person who performs any of the functions covered by this  
15 subsection submits themselves to the jurisdiction of the courts of  
16 this state for the purposes of any cause of action resulting from  
17 the functions performed.

18 C. A hospital or related institution, as such terms are defined  
19 in Section 1-701 of Title 63 of the Oklahoma Statutes, which has the  
20 principal purpose or function of providing hospital or medical care,  
21 including but not limited to any corporation, association, trust, or  
22 other organization organized and operated for such purpose, may  
23 employ one or more persons who are duly licensed to practice  
24 osteopathic medicine in this state without being regarded as itself

1 practicing osteopathic medicine within the meaning and provisions of  
2 this section. The employment by the hospital or related institution  
3 of any person who is duly licensed shall not, in and of itself, be  
4 considered as an act of unprofessional conduct by the person so  
5 employed. Nothing provided herein shall eliminate, limit or  
6 restrict the liability for any act or failure to act of any  
7 hospital, any hospital's employees or persons duly licensed to  
8 practice osteopathic medicine.

9 D. Nothing in the Oklahoma Osteopathic Medicine Act shall be  
10 construed as to require an osteopathic physician to secure an  
11 Osteopathic Continuous Certification (OCC) as a condition of  
12 licensure, reimbursement, employment or admitting privileges at a  
13 hospital in this state. For the purposes of this subsection,  
14 "Osteopathic Continuous Certification (OCC)" shall mean a continuing  
15 education program measuring core competencies in the practice of  
16 medicine and surgery and approved by a nationally-recognized  
17 accrediting organization.

18 SECTION 3. This act shall become effective November 1, 2016.

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