

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 613

By: Daniels, Bullard, Jett,
Burns, Bergstrom, Hamilton,
3 Woods, Rogers, Stephens,
4 and Dahm of the Senate

5 and

6 Hasenbeck of the House

7
8 An Act relating to health care; defining terms;
9 prohibiting gender transition procedures for
10 children; providing for administrative, criminal, and
11 civil enforcement; authorizing certain civil actions
12 and relief; amending 59 O.S. 2021, Sections 509,
567.8, and 637, which relate to health care provider
licensure; adding violations and penalties; updating
statutory language; providing for codification; and
providing an effective date.

13
14 AUTHOR: Add the following House Coauthors: Hardin, West (Kevin),
15 Gann, and Crosswhite Hader

16 Add the following Senate Coauthor: Standridge

17 AMENDMENT NO. 1. Strike the title, enacting clause, and entire bill
18 and insert:

19 "An Act relating to health care; defining terms;
20 prohibiting gender transition procedures for
21 children; providing for administrative, criminal, and
22 civil enforcement; authorizing certain civil actions
23 and relief; authorizing Attorney General to bring
enforcement actions; amending 59 O.S. 2021, Sections
509, 567.8, and 637, which relate to health care
provider licensure; adding violations and penalties;
updating statutory language; providing for
24 codification; and declaring an emergency.

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

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 2607.1 of Title 63, unless there
4 is created a duplication in numbering, reads as follows:

5 A. As used in this section:

6 1. "Child" means any person under eighteen (18) years of age;

7 2. a. "Gender transition procedures" means the following
8 medical or surgical services performed for the purpose
9 of attempting to affirm the minor's perception of his
10 or her gender or biological sex, if that perception is
11 inconsistent with the minor's biological sex:

12 (1) surgical procedures that alter or remove physical
13 or anatomical characteristics or features that
14 are typical for the individual's biological sex,
15 or

16 (2) puberty-blocking drugs, cross-sex hormones, or
17 other drugs to suppress or delay normal puberty
18 or to promote the development of feminizing or
19 masculinizing features consistent with the
20 opposite biological sex.

21 b. Gender transition procedures do not include:

22 (1) behavioral health care services or mental health
23 counseling,

24 (2) medications to treat depression and anxiety,

- 1 (3) medications prescribed, dispensed, or
2 administered specifically for the purpose of
3 treating precocious puberty or delayed puberty in
4 that patient,
- 5 (4) services provided to individuals born with
6 ambiguous genitalia, incomplete genitalia, or
7 both male and female anatomy, or biochemically
8 verifiable disorder of sex development (DSD),
9 including but not limited to:
- 10 (a) 46,XX DSD,
 - 11 (b) 46,XY DSD,
 - 12 (c) sex chromosomes DSDs,
 - 13 (d) XX or XY sex reversal, and
 - 14 (e) ovotesticular disorder,
- 15 (5) the treatment of any infection, injury, disease,
16 or disorder that has been caused by or
17 exacerbated by the performance of gender
18 transition procedures, whether or not the gender
19 transition procedure was performed in accordance
20 with state and federal law,
- 21 (6) the treatment of any physical injury or illness
22 that would, as certified by a physician, place
23 the individual in imminent danger of death or
24

1 impairment of a major bodily function unless such
2 treatment is performed, or

3 (7) the provision of puberty-blocking drugs or cross-
4 sex hormones to a minor currently receiving such
5 drugs or hormones as of the effective date of
6 this act for a period of not more than six (6)
7 months solely for the purpose of assisting the
8 minor with gradually decreasing and discontinuing
9 use of the drugs or hormones.

10 3. "Health care provider" means a physician, physician
11 assistant, Advanced Practice Registered Nurse, or any other person
12 who is licensed, certified, or otherwise authorized by the laws of
13 this state to administer health care in the ordinary course of the
14 practice of his or her profession.

15 B. A health care provider shall not knowingly provide gender
16 transition procedures to any child.

17 C. A health care provider found in violation of subsection B of
18 this section shall, upon an adverse ruling by the provider's
19 respective licensing board, be guilty of unprofessional conduct.
20 Disciplinary proceedings against the health care provider may be
21 commenced at any time after the commission of such offense.

22 D. A health care provider who violates subsection B of this
23 section shall, upon conviction, be guilty of a felony. Prosecution
24 for a criminal violation of subsection B of this section shall be

1 commenced not later than the date on which the child attains the age
2 of forty-five (45) years.

3 E. 1. The parent, legal guardian, or next friend of a child to
4 whom a health care provider has provided one or more gender
5 transition procedures in violation of subsection B of this section
6 may bring a civil action against the health care provider. The
7 parent, legal guardian, or next friend shall bring a claim for the
8 violation no later than the date on which the child attains the age
9 of majority.

10 2. A child to whom a health care provider has provided one or
11 more gender transition procedures may bring an action throughout his
12 or her minority through a parent, legal guardian, or next friend,
13 and may bring an action in his or her own name upon reaching
14 majority at any time until the date on which the child attains the
15 age of forty-five (45) years.

16 3. The court in such action may award compensatory damages,
17 punitive damages, injunctive relief, or any other appropriate
18 relief. Additionally, the court shall award court costs and
19 reasonable attorney fees to a prevailing party who establishes a
20 violation of this section.

21 4. Notwithstanding any other provision of law, an action under
22 this subsection may be commenced, and relief may be granted, in a
23 judicial proceeding without regard to whether the person commencing
24

1 the action has sought or exhausted available administrative
2 remedies.

3 F. The Attorney General may bring an action to enforce
4 compliance with this act. Nothing in this act shall be construed to
5 deny, impair, or otherwise affect any right or authority of the
6 Attorney General, the state, or an agency, officer, or employee of
7 the state to institute or intervene in any action or proceeding.

8 SECTION 2. AMENDATORY 59 O.S. 2021, Section 509, is
9 amended to read as follows:

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

- 13 1. Procuring, aiding or abetting a criminal operation;
- 14 2. The obtaining of any fee or offering to accept any fee,
15 present or other form of remuneration whatsoever, on the assurance
16 or promise that a manifestly incurable disease can or will be cured;
- 17 3. Willfully betraying a professional secret to the detriment
18 of the patient;
- 19 4. Habitual intemperance or the habitual use of habit-forming
20 drugs;
- 21 5. Conviction or confession of, or plea of guilty, nolo
22 contendere, no contest or Alford plea to a felony or any offense
23 involving moral turpitude;

24

1 6. All advertising of medical business in which statements are
2 made which are grossly untrue or improbable and calculated to
3 mislead the public;

4 7. Conviction or confession of, or plea of guilty, nolo
5 contendere, no contest or Alford plea to a crime involving violation
6 of:

7 a. the antinarcotic or prohibition laws and regulations
8 of the federal government,

9 b. the laws of this state,

10 c. State Commissioner of Health rules, or

11 d. a determination by a judge or jury;

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

14 9. The commission of any act which is a violation of the
15 criminal laws of any state when such act is connected with the
16 physician's practice of medicine. A complaint, indictment or
17 confession of a criminal violation shall not be necessary for the
18 enforcement of this provision. Proof of the commission of the act
19 while in the practice of medicine or under the guise of the practice
20 of medicine shall be unprofessional conduct;

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

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

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

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

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

15 15. The inability to practice medicine with reasonable skill
16 and safety to patients by reason of age, illness, drunkenness,
17 excessive use of drugs, narcotics, chemicals, or any other type of
18 material or as a result of any mental or physical condition. In
19 enforcing this section the State Board of Medical Licensure and
20 Supervision may, upon probable cause, request a physician to submit
21 to a mental or physical examination by physicians designated by it.
22 If the physician refuses to submit to the examination, the Board
23 shall issue an order requiring the physician to show cause why the
24 physician will not submit to the examination and shall schedule a

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

- 13 16. a. Prescribing, dispensing or administering of controlled
14 substances or narcotic drugs in excess of the amount
15 considered good medical practice,
16 b. Prescribing, dispensing or administering controlled
17 substances or narcotic drugs without medical need in
18 accordance with pertinent licensing board standards,
19 or
20 c. Prescribing, dispensing or administering opioid drugs
21 in excess of the maximum limits authorized in Section
22 2-309I of Title 63 of the Oklahoma Statutes;

23
24

1 17. Engaging in physical conduct with a patient which is sexual
2 in nature, or in any verbal behavior which is seductive or sexually
3 demeaning to a patient;

4 18. Failure to maintain an office record for each patient which
5 accurately reflects the evaluation, treatment, and medical necessity
6 of treatment of the patient;

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

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

23 21. Failure to provide a proper and safe medical facility
24 setting and qualified assistive personnel for a recognized medical

1 act, including but not limited to an initial in-person patient
2 examination, office surgery, diagnostic service or any other medical
3 procedure or treatment. Adequate medical records to support
4 diagnosis, procedure, treatment or prescribed medications must be
5 produced and maintained; or

6 22. Knowingly providing gender transition procedures as defined
7 in Section 1 of this act to a child.

8 SECTION 3. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 519.12 of Title 59, unless there
10 is created a duplication in numbering, reads as follows:

11 Unprofessional conduct by a physician assistant shall include,
12 but not be limited to, knowingly providing gender transition
13 procedures as defined in Section 1 of this act to a child.

14 SECTION 4. AMENDATORY 59 O.S. 2021, Section 567.8, is
15 amended to read as follows:

16 Section 567.8 A. The Oklahoma Board of Nursing shall have the
17 power to take any or all of the following actions:

- 18 1. To deny, revoke or suspend any:
- 19 a. licensure to practice as a Licensed Practical Nurse,
20 single-state or multistate,
 - 21 b. licensure to practice as a Registered Nurse, single-
22 state or multistate,
 - 23 c. multistate privilege to practice in Oklahoma,
- 24

- d. licensure to practice as an Advanced Practice Registered Nurse,
- e. certification to practice as an Advanced Unlicensed Assistant,
- f. authorization for prescriptive authority, or
- g. authority to order, select, obtain and administer drugs;

2. To assess administrative penalties; and

3. To otherwise discipline applicants, licensees or Advanced Unlicensed Assistants.

B. The Board shall impose a disciplinary action against the person pursuant to the provisions of subsection A of this section upon proof that the person:

1. Is guilty of deceit or material misrepresentation in procuring or attempting to procure:

- a. a license to practice registered nursing, licensed practical nursing, or a license to practice advanced practice registered nursing with or without either prescriptive authority recognition or authorization to order, select, obtain and administer drugs, or
- b. certification as an Advanced Unlicensed Assistant;

2. Is guilty of a felony, or any offense substantially related to the qualifications, functions or duties of any licensee or Advanced Unlicensed Assistant, or any offense an essential element

1 of which is fraud, dishonesty, or an act of violence, whether or not
2 sentence is imposed, or any conduct resulting in the revocation of a
3 deferred or suspended sentence or probation imposed pursuant to such
4 conviction. For the purposes of this paragraph, "substantially
5 related" means the nature of criminal conduct for which the person
6 was convicted has a direct bearing on the fitness or ability to
7 perform one or more of the duties or responsibilities necessarily
8 related to the occupation;

9 3. Fails to adequately care for patients or to conform to the
10 minimum standards of acceptable nursing or Advanced Unlicensed
11 Assistant practice that, in the opinion of the Board, unnecessarily
12 exposes a patient or other person to risk of harm;

13 4. Is intemperate in the use of alcohol or drugs, which use the
14 Board determines endangers or could endanger patients;

15 5. Exhibits through a pattern of practice or other behavior
16 actual or potential inability to practice nursing with sufficient
17 knowledge or reasonable skills and safety due to impairment caused
18 by illness, use of alcohol, drugs, chemicals or any other substance,
19 or as a result of any mental or physical condition, including
20 deterioration through the aging process or loss of motor skills,
21 mental illness, or disability that results in inability to practice
22 with reasonable judgment, skill or safety; provided, however, the
23 provisions of this paragraph shall not be utilized in a manner that

24

1 conflicts with the provisions of the Americans with Disabilities
2 Act;

3 6. Has been adjudicated as mentally incompetent, mentally ill,
4 chemically dependent or dangerous to the public or has been
5 committed by a court of competent jurisdiction, within or without
6 this state;

7 7. Is guilty of unprofessional conduct as defined in the rules
8 of the Board;

9 8. Is guilty of any act that jeopardizes a patient's life,
10 health or safety as defined in the rules of the Board;

11 9. Violated a rule promulgated by the Board, an order of the
12 Board, or a state or federal law relating to the practice of
13 registered, practical or advanced practice registered nursing or
14 advanced unlicensed assisting, or a state or federal narcotics or
15 controlled dangerous substance law including, but not limited to
16 prescribing, dispensing or administering opioid drugs in excess of
17 the maximum limits authorized in Section 2-309I of Title 63 of the
18 Oklahoma Statutes;

19 10. Has had disciplinary actions taken against the individual's
20 registered or practical nursing license, advanced unlicensed
21 assistive certification, or any professional or occupational
22 license, registration or certification in this or any state,
23 territory or country;

24

1 11. Has defaulted or been terminated from the peer assistance
2 program for any reason;

3 12. Fails to maintain professional boundaries with patients, as
4 defined in the Board rules; ~~or~~

5 13. Engages in sexual misconduct, as defined in Board rules,
6 with a current or former patient or key party, inside or outside the
7 health care setting; or

8 14. Has knowingly provided gender transition procedures as
9 defined in Section 1 of this act to a child.

10 C. Any person who supplies the Board information in good faith
11 shall not be liable in any way for damages with respect to giving
12 such information.

13 D. The Board may cause to be investigated all reported
14 violations of the Oklahoma Nursing Practice Act. Information
15 obtained during an investigation into possible violations of the
16 Oklahoma Nursing Practice Act shall be kept confidential, but may be
17 introduced by the state in administrative proceedings before the
18 Board, whereupon the information admitted becomes a public record.
19 Public records maintained by the agency are administrative records,
20 not public civil or criminal records.

21 Confidential investigative records shall not be subject to
22 discovery or subpoena in any civil or criminal proceeding, except
23 that the Board may give such information to law enforcement and
24 other state agencies as necessary and appropriate in the discharge

1 of the duties of that agency and only under circumstances that
2 ensure against unauthorized access to the information.

3 E. The Board may authorize the Executive Director to issue a
4 confidential letter of concern to a licensee when evidence does not
5 warrant formal proceedings, but the Executive Director has noted
6 indications of possible errant conduct that could lead to serious
7 consequences and formal action.

8 F. All individual proceedings before the Board shall be
9 conducted in accordance with the Administrative Procedures Act.

10 G. At a hearing the accused shall have the right to appear
11 either personally or by counsel, or both, to produce witnesses and
12 evidence on behalf of the accused, to cross-examine witnesses and to
13 have subpoenas issued by the designated Board staff. If the accused
14 is found guilty of the charges the Board may refuse to issue a
15 renewal of license to the applicant, revoke or suspend a license, or
16 otherwise discipline a licensee.

17 H. A person whose license is revoked may not apply for
18 reinstatement during the time period set by the Board. The Board on
19 its own motion may at any time reconsider its action.

20 I. Any person whose license is revoked or who applies for
21 renewal of registration and who is rejected by the Board shall have
22 the right to appeal from such action pursuant to the Administrative
23 Procedures Act.

24

1 J. 1. Any person who has been determined by the Board to have
2 violated any provisions of the Oklahoma Nursing Practice Act or any
3 rule or order issued pursuant thereto shall be liable for an
4 administrative penalty not to exceed Five Hundred Dollars (\$500.00)
5 for each count for which any holder of a certificate or license has
6 been determined to be in violation of the Oklahoma Nursing Practice
7 Act or any rule promulgated or order issued pursuant thereto.

8 2. The amount of the penalty shall be assessed by the Board
9 pursuant to the provisions of this section, after notice and an
10 opportunity for hearing is given to the accused. In determining the
11 amount of the penalty, the Board shall include, but not be limited
12 to, consideration of the nature, circumstances, and gravity of the
13 violation and, with respect to the person found to have committed
14 the violation, the degree of culpability, the effect on ability of
15 the person to continue to practice, and any show of good faith in
16 attempting to achieve compliance with the provisions of the Oklahoma
17 Nursing Practice Act.

18 K. The Board shall retain jurisdiction over any person issued a
19 license, certificate or temporary license pursuant to the Oklahoma
20 Nursing Practice Act, regardless of whether the license, certificate
21 or temporary license has expired, lapsed or been relinquished during
22 or after the alleged occurrence or conduct prescribed by the
23 Oklahoma Nursing Practice Act.

1 L. In the event disciplinary action is imposed, any person so
2 disciplined shall be responsible for any and all costs associated
3 with satisfaction of the discipline imposed.

4 M. In the event disciplinary action is imposed in an
5 administrative proceeding, the Board shall have the authority to
6 recover the monies expended by the Board in pursuing any
7 disciplinary action, including but not limited to costs of
8 investigation, probation or monitoring fees, administrative costs,
9 witness fees, attorney fees and court costs. This authority shall
10 be in addition to the Board's authority to impose discipline as set
11 out in subsection A of this section.

12 N. The Executive Director shall immediately suspend the license
13 of any person upon proof that the person has been sentenced to a
14 period of continuous incarceration serving a penal sentence for
15 commission of a misdemeanor or felony. The suspension shall remain
16 in effect until the Board acts upon the licensee's written
17 application for reinstatement of the license.

18 O. When a majority of the officers of the Board, which
19 constitutes the President, Vice President and Secretary/Treasurer,
20 find that preservation of the public health, safety or welfare
21 requires immediate action, summary suspension of licensure or
22 certification may be ordered before the filing of a sworn complaint
23 or at any other time before the outcome of an individual proceeding.
24 The summary suspension of licensure or certification may be ordered

1 without compliance with the requirements of the Oklahoma Open
2 Meeting Act. Within seven (7) days after the summary suspension,
3 the licensee shall be notified by letter that summary suspension has
4 occurred. The summary suspension letter shall include notice of the
5 date of the proposed hearing to be held in accordance with ~~Oklahoma~~
6 Administrative Code Section 485:10-11-2 of the Oklahoma
7 Administrative Code and the Administrative Procedures Act, within
8 ninety (90) days of the date of the summary suspension letter, and
9 shall be signed by one of the Board officers.

10 P. In any proceeding in which the Board is required to serve an
11 order on an individual, the Board may send such material to the
12 individual's address of record with the Board. If the order is
13 returned with a notation by the United States Postal Service
14 indicating that it is undeliverable for any reason, and the records
15 of the Board indicate that the Board has not received any change of
16 address since the order was sent, as required by the rules of the
17 Board, the order and any subsequent material relating to the same
18 matter sent to the most recent address on file with the Board shall
19 be deemed by the court as having been legally served for all
20 purposes.

21 SECTION 5. AMENDATORY 59 O.S. 2021, Section 637, is
22 amended to read as follows:

23 Section 637. A. The State Board of Osteopathic Examiners may
24 refuse to admit a person to an examination or may refuse to issue or

1 reinstate or may suspend or revoke any license issued or reinstated
2 by the Board upon proof that the applicant or holder of such a
3 license:

4 1. Has obtained a license, license renewal or authorization to
5 sit for an examination, as the case may be, through fraud,
6 deception, misrepresentation or bribery; or has been granted a
7 license, license renewal or authorization to sit for an examination
8 based upon a material mistake of fact;

9 2. Has engaged in the use or employment of dishonesty, fraud,
10 misrepresentation, false promise, false pretense, unethical conduct
11 or unprofessional conduct, as may be determined by the Board, in the
12 performance of the functions or duties of an osteopathic physician,
13 including but not limited to the following:

14 a. obtaining or attempting to obtain any fee, charge,
15 tuition or other compensation by fraud, deception or
16 misrepresentation; willfully and continually
17 overcharging or overtreating patients; or charging for
18 visits to the physician's office which did not occur
19 or for services which were not rendered,

20 b. using intimidation, coercion or deception to obtain or
21 retain a patient or discourage the use of a second
22 opinion or consultation,
23
24

- 1 c. willfully performing inappropriate or unnecessary
2 treatment, diagnostic tests or osteopathic medical or
3 surgical services,
- 4 d. delegating professional responsibilities to a person
5 who is not qualified by training, skill, competency,
6 age, experience or licensure to perform them, noting
7 that delegation may only occur within an appropriate
8 doctor-patient relationship, wherein a proper patient
9 record is maintained including, but not limited to, at
10 the minimum, a current history and physical,
- 11 e. misrepresenting that any disease, ailment, or
12 infirmity can be cured by a method, procedure,
13 treatment, medicine or device,
- 14 f. acting in a manner which results in final disciplinary
15 action by any professional society or association or
16 hospital or medical staff of such hospital in this or
17 any other state, whether agreed to voluntarily or not,
18 if the action was in any way related to professional
19 conduct, professional competence, malpractice or any
20 other violation of the Oklahoma Osteopathic Medicine
21 Act,
- 22 g. signing a blank prescription form; or dispensing,
23 prescribing, administering or otherwise distributing
24 any drug, controlled substance or other treatment

1 without sufficient examination or the establishment of
2 a physician-patient relationship, or for other than
3 medically accepted therapeutic or experimental or
4 investigational purpose duly authorized by a state or
5 federal agency, or not in good faith to relieve pain
6 and suffering, or not to treat an ailment, physical
7 infirmity or disease, or violating any state or
8 federal law on controlled dangerous substances
9 including, but not limited to, prescribing, dispensing
10 or administering opioid drugs in excess of the maximum
11 limits authorized in Section 2-309I of Title 63 of the
12 Oklahoma Statutes,

13 h. engaging in any sexual activity within a physician-
14 patient relationship,

15 i. terminating the care of a patient without adequate
16 notice or without making other arrangements for the
17 continued care of the patient,

18 j. failing to furnish a copy of a patient's medical
19 records upon a proper request from the patient or
20 legal agent of the patient or another physician; or
21 failing to comply with any other law relating to
22 medical records,

23 k. failing to comply with any subpoena issued by the
24 Board,

1 1. violating a probation agreement or order with this
2 Board or any other agency, and

3 m. failing to keep complete and accurate records of
4 purchase and disposal of controlled drugs or narcotic
5 drugs;

6 3. Has engaged in gross negligence, gross malpractice or gross
7 incompetence;

8 4. Has engaged in repeated acts of negligence, malpractice or
9 incompetence;

10 5. Has been finally adjudicated and found guilty, or entered a
11 plea of guilty or nolo contendere in a criminal prosecution, for any
12 offense reasonably related to the qualifications, functions or
13 duties of an osteopathic physician, whether or not sentence is
14 imposed, and regardless of the pendency of an appeal;

15 6. Has had the authority to engage in the activities regulated
16 by the Board revoked, suspended, restricted, modified or limited, or
17 has been reprimanded, warned or censured, probated or otherwise
18 disciplined by any other state or federal agency whether or not
19 voluntarily agreed to by the physician including, but not limited
20 to, the denial of licensure, surrender of the license, permit or
21 authority, allowing the license, permit or authority to expire or
22 lapse, or discontinuing or limiting the practice of osteopathic
23 medicine pending disposition of a complaint or completion of an
24 investigation;

1 7. Has violated or failed to comply with provisions of any act
2 or regulation administered by the Board;

3 8. Is incapable, for medical or psychiatric or any other good
4 cause, of discharging the functions of an osteopathic physician in a
5 manner consistent with the public's health, safety and welfare;

6 9. Has been guilty of advertising by means of knowingly false
7 or deceptive statements;

8 10. Has been guilty of advertising, practicing, or attempting
9 to practice under a name other than one's own;

10 11. Has violated or refused to comply with a lawful order of
11 the Board;

12 12. Has been guilty of habitual drunkenness, or habitual
13 addiction to the use of morphine, cocaine or other habit-forming
14 drugs;

15 13. Has been guilty of personal offensive behavior, which would
16 include, but not be limited to, obscenity, lewdness, and
17 molestation;

18 14. Has performed an abortion as defined by Section 1-730 of
19 Title 63 of the Oklahoma Statutes, except for an abortion necessary
20 to prevent the death of the mother or to prevent substantial or
21 irreversible physical impairment of the mother that substantially
22 increases the risk of death. The performance of an abortion on the
23 basis of the mental or emotional health of the mother shall be a
24 violation of this paragraph, notwithstanding a claim or diagnosis

1 that the woman may engage in conduct which she intends to result in
2 her death. The Board shall impose a penalty as provided in this
3 section and in Section 637.1 of this title on a licensee who
4 violates this paragraph. The penalty shall include, but not be
5 limited to, suspension of the license for a period ~~of~~ not less than
6 one (1) year; ~~or~~

7 15. Has been adjudicated to be insane, or incompetent, or
8 admitted to an institution for the treatment of psychiatric
9 disorders; or

10 16. Has knowingly provided gender transition procedures as
11 defined in Section 1 of this act to a child.

12 B. The State Board of Osteopathic Examiners shall neither
13 refuse to renew, nor suspend, nor revoke any license, however, for
14 any of these causes, unless the person accused has been given at
15 least twenty (20) days' notice in writing of the charge against him
16 or her and a public hearing by the Board; provided, three-fourths
17 (3/4) of a quorum present at a meeting may vote to suspend a license
18 in an emergency situation if the licensee affected is provided a
19 public hearing within thirty (30) days of the emergency suspension.

20 C. The State Board of Osteopathic Examiners shall have the
21 power to order or subpoena the attendance of witnesses, the
22 inspection of records and premises and the production of relevant
23 books and papers for the investigation of matters that may come
24 before them. The presiding officer of the Board shall have the

1 authority to compel the giving of testimony as is conferred on
2 courts of justice.

3 D. Any osteopathic physician in ~~the State of Oklahoma~~ this
4 state whose license to practice osteopathic medicine is revoked or
5 suspended under this section shall have the right to seek judicial
6 review of a ruling of the Board pursuant to the Administrative
7 Procedures Act.

8 E. The Board may enact rules and regulations pursuant to the
9 Administrative Procedures Act setting out additional acts of
10 unprofessional conduct, which acts shall be grounds for refusal to
11 issue or reinstate, or for action to condition, suspend or revoke a
12 license.

13 SECTION 6. It being immediately necessary for the preservation
14 of the public peace, health or safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval."
17
18
19
20
21
22
23
24

1 Passed the House of Representatives the 26th day of April, 2023.

2
3
4 Presiding Officer of the House of
5 Representatives

6 Passed the Senate the ____ day of _____, 2023.

7
8
9 Presiding Officer of the Senate

1 ENGROSSED SENATE
2 BILL NO. 613

By: Daniels, Bullard, Jett,
Burns, Bergstrom, Hamilton,
Woods, Rogers, Stephens,
and Dahm of the Senate

4 and

5 Hasenbeck of the House

6
7
8 An Act relating to health care; defining terms;
9 prohibiting gender transition procedures for
10 children; providing for administrative, criminal, and
11 civil enforcement; authorizing certain civil actions
12 and relief; amending 59 O.S. 2021, Sections 509,
567.8, and 637, which relate to health care provider
licensure; adding violations and penalties; updating
statutory language; providing for codification; and
providing an effective date.

13
14
15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 7. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 2607.1 of Title 63, unless there
18 is created a duplication in numbering, reads as follows:

19 A. As used in this section:

20 1. "Child" means any person under eighteen (18) years of age;

21 2. a. "Gender transition procedures" means any medical or
22 surgical treatment including but not limited to
23 physician's services, inpatient and outpatient

1 hospital services, or prescribed drugs related to
2 gender transition that seeks to:

- 3 (1) alter or remove physical or anatomical
4 characteristics or features that are typical for
5 the individual's biological sex, or
- 6 (2) instill or create physiological or anatomical
7 characteristics that resemble a sex different
8 from the individual's biological sex, including
9 but not limited to medical services that provide
10 puberty-blocking drugs, cross-sex hormones, or
11 other mechanisms to promote the development of
12 feminizing or masculinizing features in the
13 opposite biological sex, or genital or nongenital
14 gender reassignment surgery performed for the
15 purpose of assisting an individual with a gender
16 transition.

17 b. Gender transition procedures do not include:

- 18 (1) behavioral health care services or mental health
19 counseling,
- 20 (2) medications to treat depression and anxiety,
- 21 (3) medications prescribed, dispensed, or
22 administered specifically for the purpose of
23 treating precocious puberty or delayed puberty in
24 that patient,

1 (4) services provided to individuals born with
2 ambiguous genitalia, incomplete genitalia, or
3 both male and female anatomy, or biochemically
4 verifiable disorder of sex development (DSD),
5 including but not limited to:

6 (a) 46,XX DSD,

7 (b) 46,XY DSD,

8 (c) sex chromosomes DSDs,

9 (d) XX or XY sex reversal, and

10 (e) ovotesticular disorder, or

11 (5) the treatment of any infection, injury, disease,
12 or disorder that has been caused by or
13 exacerbated by the performance of gender
14 transition procedures, whether or not the gender
15 transition procedure was performed in accordance
16 with state and federal law; and

17 3. "Health care provider" means a physician, physician
18 assistant, Advanced Practice Registered Nurse, or any other person
19 who is licensed, certified, or otherwise authorized by the laws of
20 this state to administer health care in the ordinary course of the
21 practice of his or her profession.

22 B. A health care provider shall not provide gender transition
23 procedures to any child.

1 C. A health care provider found in violation of subsection B of
2 this section shall, upon an adverse ruling by the provider's
3 licensing board, be guilty of unprofessional conduct. Upon such
4 adverse ruling, the licensing board shall immediately revoke the
5 license or certificate of the health care provider. Disciplinary
6 proceedings against the health care provider may be commenced at any
7 time after the commission of such offense.

8 D. A health care provider who violates subsection B of this
9 section shall, upon conviction, be guilty of a felony punishable by
10 a fine not to exceed One Hundred Thousand Dollars (\$100,000.00), or
11 by imprisonment in the custody of the Department of Corrections for
12 a term not to exceed ten (10) years, or by both such fine and
13 imprisonment. Prosecution for a criminal violation of subsection B
14 of this section shall be commenced not later than the date on which
15 the child attains the age of forty-five (45) years.

16 E. 1. The parent, legal guardian, or next friend of a child to
17 whom a health care provider has provided one or more gender
18 transition procedures in violation of subsection B of this section
19 may bring a civil action against the health care provider. The
20 parent, legal guardian, or next friend shall bring a claim for the
21 violation no later than the date on which the child attains the age
22 of majority.

23 2. A child to whom a health care provider has provided one or
24 more gender transition procedures may bring an action throughout his

1 or her minority through a parent, legal guardian, or next friend,
2 and may bring an action in his or her own name upon reaching
3 majority at any time until the date on which the child attains the
4 age of forty-five (45) years.

5 3. The court in such action may award compensatory damages,
6 punitive damages, injunctive relief, or any other appropriate
7 relief. Additionally, the court shall award court costs and
8 reasonable attorney fees to a prevailing party who establishes a
9 violation of this section.

10 4. Notwithstanding any other provision of law, an action under
11 this subsection may be commenced, and relief may be granted, in a
12 judicial proceeding without regard to whether the person commencing
13 the action has sought or exhausted available administrative
14 remedies.

15 F. The Attorney General may bring an action to enforce
16 compliance with this section.

17 SECTION 8. AMENDATORY 59 O.S. 2021, Section 509, is
18 amended to read as follows:

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

22 1. Procuring, aiding or abetting a criminal operation;
23
24

1 2. The obtaining of any fee or offering to accept any fee,
2 present or other form of remuneration whatsoever, on the assurance
3 or promise that a manifestly incurable disease can or will be cured;

4 3. Willfully betraying a professional secret to the detriment
5 of the patient;

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

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

11 6. All advertising of medical business in which statements are
12 made which are grossly untrue or improbable and calculated to
13 mislead the public;

14 7. Conviction or confession of, or plea of guilty, nolo
15 contendere, no contest or Alford plea to a crime involving violation
16 of:

17 a. the antinarcotic or prohibition laws and regulations
18 of the federal government,

19 b. the laws of this state,

20 c. State Commissioner of Health rules, or

21 d. a determination by a judge or jury;

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

24

1 9. The commission of any act which is a violation of the
2 criminal laws of any state when such act is connected with the
3 physician's practice of medicine. A complaint, indictment or
4 confession of a criminal violation shall not be necessary for the
5 enforcement of this provision. Proof of the commission of the act
6 while in the practice of medicine or under the guise of the practice
7 of medicine shall be unprofessional conduct;

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

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

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

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

21 14. Aiding or abetting, directly or indirectly, the practice of
22 medicine by any person not duly authorized under the laws of this
23 state;

24

1 15. The inability to practice medicine with reasonable skill
2 and safety to patients by reason of age, illness, drunkenness,
3 excessive use of drugs, narcotics, chemicals, or any other type of
4 material or as a result of any mental or physical condition. In
5 enforcing this section the State Board of Medical Licensure and
6 Supervision may, upon probable cause, request a physician to submit
7 to a mental or physical examination by physicians designated by it.
8 If the physician refuses to submit to the examination, the Board
9 shall issue an order requiring the physician to show cause why the
10 physician will not submit to the examination and shall schedule a
11 hearing on the order within thirty (30) days after notice is served
12 on the physician, exclusive of the day of service. The physician
13 shall be notified by either personal service or by certified mail
14 with return receipt requested. At the hearing, the physician and
15 the physician's attorney are entitled to present any testimony and
16 other evidence to show why the physician should not be required to
17 submit to the examination. After a complete hearing, the Board
18 shall issue an order either requiring the physician to submit to the
19 examination or withdrawing the request for examination. The medical
20 license of a physician ordered to submit for examination may be
21 suspended until the results of the examination are received and
22 reviewed by the Board;

23

24

1 increases the risk of death. The performance of an abortion on the
2 basis of the mental or emotional health of the mother shall be a
3 violation of this paragraph, notwithstanding a claim or diagnosis
4 that the woman may engage in conduct which she intends to result in
5 her death. The Board shall impose a penalty as provided in Section
6 509.1 of this title on a licensee who violates this paragraph. The
7 penalty shall include, but not be limited to, suspension of the
8 license for a period ~~of~~ not less than one (1) year; ~~or~~

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

16 22. Providing gender transition procedures as defined in
17 Section 1 of this act to a child. Violation of this paragraph shall
18 be grounds for the immediate revocation of a physician's license.

19 SECTION 9. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 519.12 of Title 59, unless there
21 is created a duplication in numbering, reads as follows:

22 Unprofessional conduct by a physician assistant shall include,
23 but not be limited to, providing gender transition procedures as
24 defined in Section 1 of this act to a child. Violation of this

1 section shall be grounds for the immediate revocation of a physician
2 assistant's license.

3 SECTION 10. AMENDATORY 59 O.S. 2021, Section 567.8, is
4 amended to read as follows:

5 Section 567.8. A. The Oklahoma Board of Nursing shall have the
6 power to take any or all of the following actions:

7 1. To deny, revoke or suspend any:

8 a. licensure to practice as a Licensed Practical Nurse,
9 single-state or multistate,

10 b. licensure to practice as a Registered Nurse, single-
11 state or multistate,

12 c. multistate privilege to practice in Oklahoma,

13 d. licensure to practice as an Advanced Practice
14 Registered Nurse,

15 e. certification to practice as an Advanced Unlicensed
16 Assistant,

17 f. authorization for prescriptive authority, or

18 g. authority to order, select, obtain and administer
19 drugs;

20 2. To assess administrative penalties; and

21 3. To otherwise discipline applicants, licensees or Advanced
22 Unlicensed Assistants.

23

24

1 B. The Board shall impose a disciplinary action against the
2 person pursuant to the provisions of subsection A of this section
3 upon proof that the person:

4 1. Is guilty of deceit or material misrepresentation in
5 procuring or attempting to procure:

6 a. a license to practice registered nursing, licensed
7 practical nursing, or a license to practice advanced
8 practice registered nursing with or without either
9 prescriptive authority recognition or authorization to
10 order, select, obtain and administer drugs, or

11 b. certification as an Advanced Unlicensed Assistant;

12 2. Is guilty of a felony, or any offense substantially related
13 to the qualifications, functions or duties of any licensee or
14 Advanced Unlicensed Assistant, or any offense an essential element
15 of which is fraud, dishonesty, or an act of violence, whether or not
16 sentence is imposed, or any conduct resulting in the revocation of a
17 deferred or suspended sentence or probation imposed pursuant to such
18 conviction. For the purposes of this paragraph, "substantially
19 related" means the nature of criminal conduct for which the person
20 was convicted has a direct bearing on the fitness or ability to
21 perform one or more of the duties or responsibilities necessarily
22 related to the occupation;

23 3. Fails to adequately care for patients or to conform to the
24 minimum standards of acceptable nursing or Advanced Unlicensed

1 Assistant practice that, in the opinion of the Board, unnecessarily
2 exposes a patient or other person to risk of harm;

3 4. Is intemperate in the use of alcohol or drugs, which use the
4 Board determines endangers or could endanger patients;

5 5. Exhibits through a pattern of practice or other behavior
6 actual or potential inability to practice nursing with sufficient
7 knowledge or reasonable skills and safety due to impairment caused
8 by illness, use of alcohol, drugs, chemicals or any other substance,
9 or as a result of any mental or physical condition, including
10 deterioration through the aging process or loss of motor skills,
11 mental illness, or disability that results in inability to practice
12 with reasonable judgment, skill or safety; provided, however, the
13 provisions of this paragraph shall not be utilized in a manner that
14 conflicts with the provisions of the Americans with Disabilities
15 Act;

16 6. Has been adjudicated as mentally incompetent, mentally ill,
17 chemically dependent or dangerous to the public or has been
18 committed by a court of competent jurisdiction, within or without
19 this state;

20 7. Is guilty of unprofessional conduct as defined in the rules
21 of the Board;

22 8. Is guilty of any act that jeopardizes a patient's life,
23 health or safety as defined in the rules of the Board;

24

1 9. Violated a rule promulgated by the Board, an order of the
2 Board, or a state or federal law relating to the practice of
3 registered, practical or advanced practice registered nursing or
4 advanced unlicensed assisting, or a state or federal narcotics or
5 controlled dangerous substance law including, but not limited to
6 prescribing, dispensing or administering opioid drugs in excess of
7 the maximum limits authorized in Section 2-309I of Title 63 of the
8 Oklahoma Statutes;

9 10. Has had disciplinary actions taken against the individual's
10 registered or practical nursing license, advanced unlicensed
11 assistive certification, or any professional or occupational
12 license, registration or certification in this or any state,
13 territory or country;

14 11. Has defaulted or been terminated from the peer assistance
15 program for any reason;

16 12. Fails to maintain professional boundaries with patients, as
17 defined in the Board rules; ~~or~~

18 13. Engages in sexual misconduct, as defined in Board rules,
19 with a current or former patient or key party, inside or outside the
20 health care setting; or

21 14. Has provided gender transition procedures as defined in
22 Section 1 of this act to a child. Violation of this paragraph shall
23 be grounds for the immediate revocation of an Advanced Practice
24 Registered Nurse's license.

1 C. Any person who supplies the Board information in good faith
2 shall not be liable in any way for damages with respect to giving
3 such information.

4 D. The Board may cause to be investigated all reported
5 violations of the Oklahoma Nursing Practice Act. Information
6 obtained during an investigation into possible violations of the
7 Oklahoma Nursing Practice Act shall be kept confidential, but may be
8 introduced by the state in administrative proceedings before the
9 Board, whereupon the information admitted becomes a public record.
10 Public records maintained by the agency are administrative records,
11 not public civil or criminal records.

12 Confidential investigative records shall not be subject to
13 discovery or subpoena in any civil or criminal proceeding, except
14 that the Board may give such information to law enforcement and
15 other state agencies as necessary and appropriate in the discharge
16 of the duties of that agency and only under circumstances that
17 ensure against unauthorized access to the information.

18 E. The Board may authorize the Executive Director to issue a
19 confidential letter of concern to a licensee when evidence does not
20 warrant formal proceedings, but the Executive Director has noted
21 indications of possible errant conduct that could lead to serious
22 consequences and formal action.

23 F. All individual proceedings before the Board shall be
24 conducted in accordance with the Administrative Procedures Act.

1 G. At a hearing the accused shall have the right to appear
2 either personally or by counsel, or both, to produce witnesses and
3 evidence on behalf of the accused, to cross-examine witnesses and to
4 have subpoenas issued by the designated Board staff. If the accused
5 is found guilty of the charges the Board may refuse to issue a
6 renewal of license to the applicant, revoke or suspend a license, or
7 otherwise discipline a licensee.

8 H. A person whose license is revoked may not apply for
9 reinstatement during the time period set by the Board. The Board on
10 its own motion may at any time reconsider its action.

11 I. Any person whose license is revoked or who applies for
12 renewal of registration and who is rejected by the Board shall have
13 the right to appeal from such action pursuant to the Administrative
14 Procedures Act.

15 J. 1. Any person who has been determined by the Board to have
16 violated any provisions of the Oklahoma Nursing Practice Act or any
17 rule or order issued pursuant thereto shall be liable for an
18 administrative penalty not to exceed Five Hundred Dollars (\$500.00)
19 for each count for which any holder of a certificate or license has
20 been determined to be in violation of the Oklahoma Nursing Practice
21 Act or any rule promulgated or order issued pursuant thereto.

22 2. The amount of the penalty shall be assessed by the Board
23 pursuant to the provisions of this section, after notice and an
24 opportunity for hearing is given to the accused. In determining the

1 amount of the penalty, the Board shall include, but not be limited
2 to, consideration of the nature, circumstances, and gravity of the
3 violation and, with respect to the person found to have committed
4 the violation, the degree of culpability, the effect on ability of
5 the person to continue to practice, and any show of good faith in
6 attempting to achieve compliance with the provisions of the Oklahoma
7 Nursing Practice Act.

8 K. The Board shall retain jurisdiction over any person issued a
9 license, certificate or temporary license pursuant to the Oklahoma
10 Nursing Practice Act, regardless of whether the license, certificate
11 or temporary license has expired, lapsed or been relinquished during
12 or after the alleged occurrence or conduct prescribed by the
13 Oklahoma Nursing Practice Act.

14 L. In the event disciplinary action is imposed, any person so
15 disciplined shall be responsible for any and all costs associated
16 with satisfaction of the discipline imposed.

17 M. In the event disciplinary action is imposed in an
18 administrative proceeding, the Board shall have the authority to
19 recover the monies expended by the Board in pursuing any
20 disciplinary action, including but not limited to costs of
21 investigation, probation or monitoring fees, administrative costs,
22 witness fees, attorney fees and court costs. This authority shall
23 be in addition to the Board's authority to impose discipline as set
24 out in subsection A of this section.

1 N. The Executive Director shall immediately suspend the license
2 of any person upon proof that the person has been sentenced to a
3 period of continuous incarceration serving a penal sentence for
4 commission of a misdemeanor or felony. The suspension shall remain
5 in effect until the Board acts upon the licensee's written
6 application for reinstatement of the license.

7 O. When a majority of the officers of the Board, which
8 constitutes the President, Vice President and Secretary/Treasurer,
9 find that preservation of the public health, safety or welfare
10 requires immediate action, summary suspension of licensure or
11 certification may be ordered before the filing of a sworn complaint
12 or at any other time before the outcome of an individual proceeding.
13 The summary suspension of licensure or certification may be ordered
14 without compliance with the requirements of the Oklahoma Open
15 Meeting Act. Within seven (7) days after the summary suspension,
16 the licensee shall be notified by letter that summary suspension has
17 occurred. The summary suspension letter shall include notice of the
18 date of the proposed hearing to be held in accordance with ~~Oklahoma~~
19 Administrative Code Section 485:10-11-2 of the Oklahoma
20 Administrative Code and the Administrative Procedures Act, within
21 ninety (90) days of the date of the summary suspension letter, and
22 shall be signed by one of the Board officers.

23 P. In any proceeding in which the Board is required to serve an
24 order on an individual, the Board may send such material to the

1 individual's address of record with the Board. If the order is
2 returned with a notation by the United States Postal Service
3 indicating that it is undeliverable for any reason, and the records
4 of the Board indicate that the Board has not received any change of
5 address since the order was sent, as required by the rules of the
6 Board, the order and any subsequent material relating to the same
7 matter sent to the most recent address on file with the Board shall
8 be deemed by the court as having been legally served for all
9 purposes.

10 SECTION 11. AMENDATORY 59 O.S. 2021, Section 637, is
11 amended to read as follows:

12 Section 637. A. The State Board of Osteopathic Examiners may
13 refuse to admit a person to an examination or may refuse to issue or
14 reinstate or may suspend or revoke any license issued or reinstated
15 by the Board upon proof that the applicant or holder of such a
16 license:

17 1. Has obtained a license, license renewal or authorization to
18 sit for an examination, as the case may be, through fraud,
19 deception, misrepresentation or bribery; or has been granted a
20 license, license renewal or authorization to sit for an examination
21 based upon a material mistake of fact;

22 2. Has engaged in the use or employment of dishonesty, fraud,
23 misrepresentation, false promise, false pretense, unethical conduct
24 or unprofessional conduct, as may be determined by the Board, in the

1 performance of the functions or duties of an osteopathic physician,
2 including but not limited to the following:

- 3 a. obtaining or attempting to obtain any fee, charge,
4 tuition or other compensation by fraud, deception or
5 misrepresentation; willfully and continually
6 overcharging or overtreating patients; or charging for
7 visits to the physician's office which did not occur
8 or for services which were not rendered,
- 9 b. using intimidation, coercion or deception to obtain or
10 retain a patient or discourage the use of a second
11 opinion or consultation,
- 12 c. willfully performing inappropriate or unnecessary
13 treatment, diagnostic tests or osteopathic medical or
14 surgical services,
- 15 d. delegating professional responsibilities to a person
16 who is not qualified by training, skill, competency,
17 age, experience or licensure to perform them, noting
18 that delegation may only occur within an appropriate
19 doctor-patient relationship, wherein a proper patient
20 record is maintained including, but not limited to, at
21 the minimum, a current history and physical,
- 22 e. misrepresenting that any disease, ailment, or
23 infirmity can be cured by a method, procedure,
24 treatment, medicine or device,

1 f. acting in a manner which results in final disciplinary
2 action by any professional society or association or
3 hospital or medical staff of such hospital in this or
4 any other state, whether agreed to voluntarily or not,
5 if the action was in any way related to professional
6 conduct, professional competence, malpractice or any
7 other violation of the Oklahoma Osteopathic Medicine
8 Act,

9 g. signing a blank prescription form; or dispensing,
10 prescribing, administering or otherwise distributing
11 any drug, controlled substance or other treatment
12 without sufficient examination or the establishment of
13 a physician-patient relationship, or for other than
14 medically accepted therapeutic or experimental or
15 investigational purpose duly authorized by a state or
16 federal agency, or not in good faith to relieve pain
17 and suffering, or not to treat an ailment, physical
18 infirmity or disease, or violating any state or
19 federal law on controlled dangerous substances
20 including, but not limited to, prescribing, dispensing
21 or administering opioid drugs in excess of the maximum
22 limits authorized in Section 2-309I of Title 63 of the
23 Oklahoma Statutes,
24

1 h. engaging in any sexual activity within a physician-
2 patient relationship,

3 i. terminating the care of a patient without adequate
4 notice or without making other arrangements for the
5 continued care of the patient,

6 j. failing to furnish a copy of a patient's medical
7 records upon a proper request from the patient or
8 legal agent of the patient or another physician; or
9 failing to comply with any other law relating to
10 medical records,

11 k. failing to comply with any subpoena issued by the
12 Board,

13 l. violating a probation agreement or order with this
14 Board or any other agency, and

15 m. failing to keep complete and accurate records of
16 purchase and disposal of controlled drugs or narcotic
17 drugs;

18 3. Has engaged in gross negligence, gross malpractice or gross
19 incompetence;

20 4. Has engaged in repeated acts of negligence, malpractice or
21 incompetence;

22 5. Has been finally adjudicated and found guilty, or entered a
23 plea of guilty or nolo contendere in a criminal prosecution, for any
24 offense reasonably related to the qualifications, functions or

1 duties of an osteopathic physician, whether or not sentence is
2 imposed, and regardless of the pendency of an appeal;

3 6. Has had the authority to engage in the activities regulated
4 by the Board revoked, suspended, restricted, modified or limited, or
5 has been reprimanded, warned or censured, probated or otherwise
6 disciplined by any other state or federal agency whether or not
7 voluntarily agreed to by the physician including, but not limited
8 to, the denial of licensure, surrender of the license, permit or
9 authority, allowing the license, permit or authority to expire or
10 lapse, or discontinuing or limiting the practice of osteopathic
11 medicine pending disposition of a complaint or completion of an
12 investigation;

13 7. Has violated or failed to comply with provisions of any act
14 or regulation administered by the Board;

15 8. Is incapable, for medical or psychiatric or any other good
16 cause, of discharging the functions of an osteopathic physician in a
17 manner consistent with the public's health, safety and welfare;

18 9. Has been guilty of advertising by means of knowingly false
19 or deceptive statements;

20 10. Has been guilty of advertising, practicing, or attempting
21 to practice under a name other than one's own;

22 11. Has violated or refused to comply with a lawful order of
23 the Board;

24

1 12. Has been guilty of habitual drunkenness, or habitual
2 addiction to the use of morphine, cocaine or other habit-forming
3 drugs;

4 13. Has been guilty of personal offensive behavior, which would
5 include, but not be limited to, obscenity, lewdness, and
6 molestation;

7 14. Has performed an abortion as defined by Section 1-730 of
8 Title 63 of the Oklahoma Statutes, except for an abortion necessary
9 to prevent the death of the mother or to prevent substantial or
10 irreversible physical impairment of the mother that substantially
11 increases the risk of death. The performance of an abortion on the
12 basis of the mental or emotional health of the mother shall be a
13 violation of this paragraph, notwithstanding a claim or diagnosis
14 that the woman may engage in conduct which she intends to result in
15 her death. The Board shall impose a penalty as provided in this
16 section and in Section 637.1 of this title on a licensee who
17 violates this paragraph. The penalty shall include, but not be
18 limited to, suspension of the license for a period ~~of~~ not less than
19 one (1) year; ~~or~~

20 15. Has been adjudicated to be insane, or incompetent, or
21 admitted to an institution for the treatment of psychiatric
22 disorders; or

23 16. Has provided gender transition procedures as defined in
24 Section 1 of this act to a child. Violation of this paragraph shall

1 be grounds for the immediate revocation of an osteopathic
2 physician's license.

3 B. The State Board of Osteopathic Examiners shall neither
4 refuse to renew, nor suspend, nor revoke any license, however, for
5 any of these causes, unless the person accused has been given at
6 least ~~twenty (20) days'~~ twenty-days' notice in writing of the charge
7 against him or her and a public hearing by the Board; provided,
8 three-fourths (3/4) of a quorum present at a meeting may vote to
9 suspend a license in an emergency situation if the licensee affected
10 is provided a public hearing within thirty (30) days of the
11 emergency suspension.

12 C. The State Board of Osteopathic Examiners shall have the
13 power to order or subpoena the attendance of witnesses, the
14 inspection of records and premises and the production of relevant
15 books and papers for the investigation of matters that may come
16 before them. The presiding officer of the Board shall have the
17 authority to compel the giving of testimony as is conferred on
18 courts of justice.

19 D. Any osteopathic physician in ~~the State of Oklahoma~~ this
20 state whose license to practice osteopathic medicine is revoked or
21 suspended under this section shall have the right to seek judicial
22 review of a ruling of the Board pursuant to the Administrative
23 Procedures Act.

24

1 E. The Board may enact rules and regulations pursuant to the
2 Administrative Procedures Act setting out additional acts of
3 unprofessional conduct, which acts shall be grounds for refusal to
4 issue or reinstate, or for action to condition, suspend or revoke a
5 license.

6 SECTION 12. This act shall become effective November 1, 2023.

7 Passed the Senate the 15th day of February, 2023.

8

9

Presiding Officer of the Senate

10

11 Passed the House of Representatives the ____ day of _____,
12 2023.

13

14

Presiding Officer of the House
of Representatives

15

16

17

18

19

20

21

22

23

24