An Act

ENROLLED HOUSE
BILL NO. 2791

By: McCullough of the House

and

Sykes of the Senate

An Act relating to professions and occupations; amending 59 O.S. 2011, Section 503, which relates to sanctions for unprofessional conduct by physicians; providing State Board of Medical Licensure and Supervision staff may perform certain investigation and may file certain complaint; amending 59 O.S. 2011, Section 504, which relates to citations and subpoenas; permitting secretary of Board to issue certain subpoenas; providing for patient confidentiality and that subpoena compliance not be a violation of certain laws; amending 59 O.S. 2011, Section 512, which relates to certain positions of the State Board of Medical Licensure and Supervision; granting authority to Board investigators to investigate and inspect records to determine if certain disciplinary action is warranted; and providing an effective date.

SUBJECT: Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 503, is amended to read as follows:

Section 503. The State Board of Medical Licensure and Supervision may suspend, revoke or order any other appropriate sanctions against the license of any physician or surgeon holding a license to practice in this state for unprofessional conduct, but no

such suspension, revocation or other penalty shall be made until the licensee is cited to appear for hearing. No such citation shall be issued except upon sworn complaint filed with the secretary of the Board~~,~~ charging the licensee with having been guilty of unprofessional conduct and setting forth the particular act or acts alleged to constitute unprofessional conduct. In the event it comes to the attention of the Board that a violation of the rules of professional conduct may have occurred, even though a formal complaint or charge may not have been filed, the Board staff may conduct an investigation of the possible violation, and may upon its own motion institute a formal complaint. In the course of the investigation persons appearing before the Board may be required to testify under oath. Upon the filing of a complaint, either by an individual or the Board staff as provided herein, the citation must forthwith be issued by the secretary of the Board over the signature of the secretary and seal of the Board, setting forth the complaint of unprofessional conduct, and giving due notice of the time and place of the hearing by the Board. The citation shall be made returnable at the next regular meeting of the Board occurring at least thirty (30) days after the service of the citation. The defendant shall file a written answer under oath with the secretary of the Board within twenty (20) days after the service of the citation. The secretary of the Board may extend the time of answer upon satisfactory showing that the defendant is for reasonable cause~~,~~ unable to answer within the twenty (20) days, but in no case shall the time be extended beyond the date of the next regular meeting of the Board, unless a continuance is granted by the Board.

SECTION 2. AMENDATORY 59 O.S. 2011, Section 504, is amended to read as follows:

Section 504. All citations and subpoenas, under the contemplation of this act, shall be served in general accordance with the statutes of the State of Oklahoma then in force applying to the service of such documents, and all provisions of the statutes of the state then in force, relating to citations and subpoenas, are hereby made applicable to the citations and subpoenas herein provided for. The secretary of the State Board of Medical Licensure and Supervision, or the secretary's designee, during the course of an investigation, shall have the power to issue subpoenas for the attendance of witnesses, the inspection of premises and the production of documents or things, including, but not limited to, pharmacy, medical and hospital records. Such subpoenas shall carry the same force and effect as if issued as an order from a district court of competent jurisdiction. Patient confidentiality shall be

maintained by the Board and subpoena compliance shall not be considered a violation of any state or federal confidentiality laws. All the provisions of the statutes of the state, then in force, governing the taking of testimony by depositions, are made applicable to the taking of depositions under this act. The attendance of witnesses shall be compelled in such hearings by subpoenas issued by the secretary of the ~~State~~ Board ~~of Medical Licensure and Supervision~~ over the seal thereof, and the secretary shall in no case refuse to issue such subpoenas upon praecipe filed therefor accompanied with the fee of Five Dollars ($5.00) for each subpoena issued. If any person refuse to obey such subpoena served upon him in such manner, the fact of such refusal shall be certified by the secretary of the Board, over the seal thereof, to the district court of the county in which such service was had, and the court shall proceed to hear said matter in accordance with the statutes of the state then in force governing contempt as for disobedience of its own process.

SECTION 3. AMENDATORY 59 O.S. 2011, Section 512, is amended to read as follows:

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

The Board shall have the authority to hire one or more investigators as may be necessary to carry out the provisions of this act at an annual salary to be fixed by the Board. Such investigators may be commissioned peace officers of this state. In addition such investigators shall have the authority and duty to investigate and inspect the records of all persons in order to determine whether or not a disciplinary action for unprofessional misconduct is warranted or whether the narcotic laws or the dangerous drug laws have been complied with.

The Board is specifically authorized to contract with state agencies or other bodies to perform investigative services at a rate set by the Board.

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

The expenditures authorized herein shall not be a charge against the state, but the same shall be paid solely from the Board's depository fund.

SECTION 4. This act shall become effective November 1, 2014.

Passed the House of Representatives the 4th day of March, 2014.

Presiding Officer of the House
of Representatives

Passed the Senate the 21st day of April, 2014.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 22nd day of April, 20 14, at 1:53 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 28th day of April, 20 14, at 3:41 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 28th day of April, 20 14, at 5:28 o'clock P. M.

By: Chris Benge