An Act

ENROLLED SENATE
BILL NO. 1148

By: Crain of the Senate

and

Ritze of the House

An Act relating to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act; amending 59 O.S. 2011, Section 492, which relates to the practice of medicine and surgery; amending 59 O.S. 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.

SUBJECT: Medical licensure

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

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

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

B. A hospital or related institution as such terms are defined in Section 1-701 of Title 63 of the Oklahoma Statutes, which has the

principal purpose or function of providing hospital or medical care, including but not limited to any corporation, association, trust, or other organization organized and operated for such purpose, may employ one or more persons who are duly licensed to practice medicine in this state without being regarded as itself practicing medicine within the meaning and provisions of this section. The employment by the hospital or related institution of any person who is duly licensed to practice medicine in this state shall not, in and of itself, be considered as an act of unprofessional conduct by the person so employed. Nothing provided herein shall eliminate, limit, or restrict the liability for any act or failure to act of any hospital, any hospital's employees, or persons duly licensed to practice medicine.

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

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

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

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

b. ~~Except~~ except as provided in subsection D of this section, performance by a person within or outside of this state, through an ongoing regular arrangement, of diagnostic or treatment services, including but not limited to, stroke prevention and treatment, through electronic communications for any patient whose condition is being diagnosed or treated within this

state by a physician duly licensed and practicing in this state. A person who performs any of the functions covered by this subparagraph submits himself or herself to the jurisdiction of the courts of this state for the purposes of any cause of action resulting from the functions performed~~.~~, and

c. ~~Nothing~~ nothing in the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act shall be construed to affect or give jurisdiction to the Board over any person other than medical doctors or persons holding themselves out as medical doctors;

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

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

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

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

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

3. A commissioned medical officer of the armed forces of the United States or medical officer of the United States Public Health Service or the Department of Veterans Affairs of the United States in the discharge of official duties and/or within federally

controlled facilities; and provided that such person shall be fully licensed to practice medicine and surgery in one or more jurisdictions of the United States; provided further that such person who holds a medical license in this state shall be subject to the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act;

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

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

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

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

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

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

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

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

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

F. Nothing in the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act shall prohibit services rendered by any person not licensed by the Board and practicing any nonallopathic healing practice.

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

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

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

2. Osteopathic physicians engaged in postgraduate training beyond the internship year, also known as PGY-1, shall be licensed.

Osteopathic physicians engaged in the internship or PGY-1 year may be eligible for a resident training license.

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

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

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

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

4. A person who performs any of the functions covered by this subsection submits themselves to the jurisdiction of the courts of

this state for the purposes of any cause of action resulting from the functions performed.

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

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

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

Passed the Senate the 1st day of March, 2016.

Presiding Officer of the Senate

Passed the House of Representatives the 4th day of April, 2016.

Presiding Officer of the House of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 5th day of April, 2016, at 3:30 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 11th day of April, 2016, at 4:39 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 11th day of April, 2016, at 5:05 o'clock P. M.

By: Chris Benge