

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2562

By: Peters

AS INTRODUCED

An Act relating to professions and occupations; creating the Oklahoma Surgical Assistant Licensing Act; defining terms; creating advisory board; creating system for complaints and investigations; providing for confidentiality; creating licensing requirements and eligibility; providing for licensing examination; creating temporary license requirements; setting fees; providing for renewal of license; clarifying scope of practice; providing for disciplinary actions by medical board; specifying fraudulent, illegal, and unfit conduct; providing for penalties; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Surgical Assistant Licensing Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.2 of Title 59, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Surgical Assistant Licensing Act:

1. "Advisory board" means the Board of Surgical Assistants;
2. "Delegating physician" means a physician who is licensed by the medical board either as a doctor of medicine or doctor of osteopathic medicine and who assumes responsibility and legal liability for the services rendered by a surgical assistant;
3. "Medical board" means the State Board of Medical Licensure and Supervision; and
4. "Surgical assistant" means a person who provides aid to a delegating physician in exposure, hemostasis, and other technical

functions that assist the physician in performing a safe operation with optimal results for the patient.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.3 of Title 59, unless there is created a duplication in numbering, reads as follows:

A person is not required to hold a license under the Oklahoma Surgical Assistant Licensing Act if the person is:

1. A student enrolled in a surgical assistant education program approved by the State Board of Medical Licensure and Supervision who is assisting in a surgical operation that is an integral part of the program of study;

2. A surgical assistant employed in the service of the federal government while performing duties related to that employment;

3. A person acting under the delegated authority of a licensed physician; or

4. A licensed health care worker acting within the scope of the license of the person.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.4 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Board of Surgical Assistants is created as an advisory board to the State Board of Medical Licensure and Supervision.

B. The advisory board shall consist of nine (9) members appointed by the Governor as follows:

1. Three members must be practicing surgical assistants who have at least five (5) years clinical experience as surgical assistants;

2. Three members must be physicians licensed in this state who supervise surgical assistants; and

3. Three members must be members of the public who are not licensed as physicians or surgical assistants.

C. Members of the advisory board are appointed for staggered six-year terms. The terms of three members expire on February 1 of each odd-numbered year.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.5 of Title 59, unless there is created a duplication in numbering, reads as follows:

A person is not eligible for appointment as a public member of the Board of Surgical Assistants if the person or the spouse of the person:

1. Is licensed by an occupational regulatory agency in the field of health care; or

2. Is employed by or participates in the management of a business entity or other organization that provides health care services or that sells, manufactures, or distributes health care supplies or equipment.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.6 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A person may not be a member of the Board of Surgical Assistants and may not be an advisory board employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and the subsequent amendments, if:

1. The person is an officer, employee, or paid consultant of an Oklahoma trade association in the field of surgical assisting; or

2. The spouse of the person is an officer, manager, or paid consultant of an Oklahoma trade association in the field of surgical assisting.

B. As used in this section, "Oklahoma trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist members

and the industry or profession in dealing with mutual business or professional problems and in promoting common interests.

C. A person may not be a member of the advisory board or act as the general counsel to the advisory board if the person is required to register as a lobbyist under Section 4250 of Title 74 of the Oklahoma Statutes because of the activities of a person for compensation on behalf of a profession related to the operation of the advisory board.

D. An advisory board member may not serve more than two consecutive full terms.

E. If a vacancy occurs during the term of a member, the Governor shall appoint a new member to fill the unexpired term.

F. Appointments to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

G. The advisory board shall meet at least twice each year. The advisory board may meet at other times at the call of the presiding officer or as provided by advisory board rule.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.7 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. It is a ground for removal from the Board of Surgical Assistants that a member:

1. Does not have at the time of appointment the qualifications required by Section 4 of this act;

2. Does not maintain during service on the board the qualifications required by Section 4 of this act;

3. Is ineligible for membership under Sections 5 or 6 of this act;

4. Cannot, because of illness or disability, discharge the duties of the member for a substantial part of the term of the member; or

5. Is absent from more than half of the regularly scheduled advisory board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the advisory board.

B. The validity of an action of the advisory board is not affected by the fact that it is taken when a ground for removal of an advisory board member exists.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.8 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Governor shall designate biennially a member of the Board of Surgical Assistants as the presiding officer of the advisory board to serve in that capacity at the will of the Governor.

B. The advisory board shall elect biennially from among the members an assistant presiding officer and secretary-treasurer.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.9 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A member of the Board of Surgical Assistants shall not receive compensation for service on the advisory board.

B. An advisory board member is entitled to reimbursement for expenses and the per diem as set by the State Travel Reimbursement Act for each day that the member performs duties as an advisory board member.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.10 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A person who is appointed to and qualifies for office as a member of the Board of Surgical Assistants may not vote, deliberate, or be counted as a member in attendance at a meeting of the advisory

board until the person completes a training program that complies with this section.

B. The training program shall provide the person with information regarding:

1. The legislation that created the advisory board and the State Board of Medical Licensure and Supervision;
2. The programs operated by the advisory board;
3. The role and functions of the advisory board;
4. The rules of the medical board, with an emphasis on the rules that relate to disciplinary and investigatory authority;
5. The current budget for the advisory board;
6. The results of the most recent formal audit of the advisory board;
7. The requirements of:
  - a. the Oklahoma Open Meeting Act,
  - b. the Oklahoma Open Records Act,
  - c. the Administrative Procedures Act, and
  - d. other laws relating to public officials, including conflict of interest laws; and
8. Any applicable ethics policies promulgated by the medical board or the Ethics Commission.

C. A person appointed to the advisory board is entitled to reimbursement, as provided by the State Travel Reimbursement Act, for travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.11 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Subject to the advice and approval of the State Board of Medical Licensure and Supervision, the Board of Surgical Assistants shall:

1. Establish qualifications for a surgical assistant to practice in this state;
2. Establish minimum educational and training requirements necessary for the advisory board to recommend that the medical board issue a license to practice as a surgical assistant;
3. Administer an examination for a license to practice as a surgical assistant;
4. Develop requirements for licensure by endorsement of other states;
5. Prescribe the application form for a license to practice as a surgical assistant;
6. Make recommendations on an application for a license to practice as a surgical assistant;
7. Develop and implement policies that clearly separate the policymaking responsibilities of the advisory board and the management responsibilities of the executive director and the staff of the medical board;
8. Develop an approved program of continuing education and the manner in which attendance at all approved courses, clinics, forums, lectures, programs, or seminars is monitored, recorded, and submitted to the advisory board; and
9. Recommend additional rules as are necessary for the administration and enforcement of the Oklahoma Surgical Assistant Licensing Act.

B. The advisory board shall have no independent rulemaking authority.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.12 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Board of Surgical Assistants shall prepare annually a complete and detailed written report accounting for all funds

received and disbursed by the medical board under the Oklahoma Surgical Assistant Licensing Act during the preceding fiscal year.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.13 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A medical peer review committee in this state, a surgical assistant, a surgical assistant student, or a physician practicing medicine in this state shall report relevant information to the Board of Surgical Assistants related to the acts of a surgical assistant in this state if, in the opinion of that person, a surgical assistant poses a continuing threat to the public welfare through the practice of that person as a surgical assistant. The duty to report under this section may not be nullified through contract.

B. A person who, without malice, furnishes records, information, or assistance to the advisory board under this section shall be immune from any civil liability arising from that action.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.14 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Subject to the advice and approval of the State Board of Medical Licensure and Supervision, the Board of Surgical Assistants shall develop and implement policies that provide the public with a reasonable opportunity to appear before the advisory board and speak on any issue under the jurisdiction of the advisory board.

B. The executive director of the advisory board shall prepare and maintain a written plan that describes how a person who does not speak English may be provided reasonable access to the programs and services of the advisory board.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.15 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Board of Surgical Assistants shall prepare information of public interest describing the functions of the advisory board and the procedures by which complaints are filed and resolved.

B. The advisory board shall make the information available to the public and appropriate state agencies.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.16 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Board of Surgical Assistants, by rule, shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the advisory board for the purpose of directing complaints to the advisory board.

B. The advisory board shall list with the regular telephone number of the advisory board, any toll-free telephone number established under other state law that may be called to present a complaint about a health professional.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.17 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Board of Surgical Assistants shall maintain a file on each written complaint filed with the advisory board. The file must include:

1. The name of the person who filed the complaint;
2. The date the complaint is received by the advisory board;
3. The subject matter of the complaint;
4. The name of each person contacted in relation to the complaint;
5. A summary of the results of the review or investigation of the complaint; and
6. An explanation of the reason the file was closed, if the advisory board closed the file without taking action other than to investigate the complaint.

B. The advisory board shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the policies and procedures relating to complaint investigation and resolution.

C. The advisory board, at least quarterly and until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.18 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Board of Surgical Assistants shall provide a license holder who is the subject of a formal complaint filed under the Oklahoma Surgical Assistant Licensing Act with access to all information in the possession of the advisory board that the advisory board intends to offer into evidence in presenting a case in chief at the contested hearing on the complaint, subject to any other privilege or restriction established by rule, statute, or legal precedent. The advisory board shall provide the information not later than thirty (30) days after receipt of a written request from the license holder or the counsel of the license holder, unless good cause is shown for delay.

B. Notwithstanding subsection A, the advisory board is not required to provide:

1. Advisory board investigative reports;
2. Investigative memoranda;
3. The identity of a nontestifying complainant;
4. Attorney-client communications;
5. Attorney work product; or
6. Other material covered by a privilege recognized by law.

C. The provision of information does not constitute a waiver of privilege or confidentiality under the Oklahoma Surgical Assistant Licensing Act or other law.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.19 of Title 59, unless there is created a duplication in numbering, reads as follows:

On the written request of a health care entity, the Board of Surgical Assistants shall provide to the entity:

1. Information about a complaint filed against a license holder that was resolved after investigation by:

a. a disciplinary order of the State Board of Medical Licensure and Supervision, or

b. an agreed settlement, and

2. The basis of and current status of any complaint under active investigation.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.20 of Title 59, unless there is created a duplication in numbering, reads as follows:

A complaint, adverse report, investigation file, other report, or other investigative information in the possession of or received or gathered by the Board of Surgical Assistants, advisory board employee or agent relating to a license holder, a license application, or a criminal investigation or proceeding is privileged and confidential and is not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than the advisory board or advisory board employee or agent involved in license holder discipline.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.21 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Investigative information in the possession of the Board of Surgical Assistants, an advisory board employee, or an agent that relates to the discipline of a license holder may be disclosed to:

1. A licensing authority in another state or a territory or country in which the license holder is licensed or has applied for a license; or

2. A peer review committee reviewing:

a. an application for privileges, or

b. the qualifications of the licensee with respect to retaining privileges.

B. If the investigative information in the possession of the advisory board or an advisory board employee or agent indicates a crime may have been committed, the advisory board shall report the information to the proper law enforcement agency. The advisory board shall cooperate with and assist all law enforcement agencies conducting criminal investigations of a license holder by providing information relevant to the investigation. Confidential information disclosed by the advisory board to a law enforcement agency remains confidential and may not be disclosed by the law enforcement agency except as necessary to further the investigation.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.22 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A person may not practice as a surgical assistant unless the person is licensed under the Oklahoma Surgical Assistant Licensing Act.

B. Unless the person holds a license under the Oklahoma Surgical Assistant Licensing Act, a person may not use, in connection with the name of the person:

1. The title "Licensed Surgical Assistant"; or

2. Any other designation that would imply that the person is a licensed surgical assistant.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.23 of Title 59, unless there is created a duplication in numbering, reads as follows:

An applicant for a license must:

1. File a written application with the Board of Surgical Assistants on a form prescribed by the State Board of Medical Licensure and Supervision; and
2. Pay the application fee set by the medical board.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.24 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Except as provided by Section 25 of this act, to be eligible for a license, a person must:

1. Be of good moral character;
2. Not have been convicted of a felony or a crime involving moral turpitude;
3. Not use drugs or alcohol to an extent that affects the professional competency of the applicant;
4. Not have had a license or certification revoked by a licensing agency or by a certifying professional organization; and
5. Not have engaged in fraud or deceit in applying for a license under the Oklahoma Surgical Assistant Licensing Act.

B. In addition to meeting the requirements of subsection A of this section, a person must pass the examination required by the Oklahoma Surgical Assistant Licensing Act; and

1. Complete a surgical assistant educational program approved by the State Board of Medical Licensure and Supervision;
2. Complete a surgical technologist educational program approved by the medical board and provide proof acceptable to the medical board that the person has first assisted a total of at least one thousand five hundred (1,500) hours during the twenty-four (24) months preceding the date of application; or

3. Provide proof acceptable to the medical board that the person has:

a. passed the following basic science courses in a curriculum approved by the medical board:

- (1) anatomy and physiology,
- (2) aseptic technique,
- (3) pharmacology,
- (4) surgical anatomy,
- (5) operative procedures,
- (6) draping or prepping techniques,
- (7) positioning of the operative patient, and
- (8) local, regional and general anesthesia techniques, and

b. acted as a first assistant at surgical procedures for at least one thousand five hundred (1,500) hours during the twenty-four (24) months preceding the date of application.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.25 of Title 59, unless there is created a duplication in numbering, reads as follows:

To be eligible to take the license examination, an applicant must:

1. File an application not later than ninety (90) days before the date of the examination; and

2. Pay the examination fee set by the State Board of Medical Licensure and Supervision to cover the cost of administering the examination.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.26 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Not later than thirty (30) days after the date a person takes a licensing examination, the Board of Surgical Assistants shall notify the person of the results of the examination.

B. If the examination is graded or reviewed by a testing service:

1. The advisory board shall notify the person of the results of the examination not later than fourteen (14) days after the date the advisory board receives the results from the testing service; or

2. If notice of the examination results will be delayed for longer than ninety (90) days after the examination date, the advisory board shall notify the person of the reason for the delay within ninety (90) days of the examination.

C. The advisory board may require a testing service to notify a person of the results of the examination of the person.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.27 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A person may be licensed as a surgical assistant under the Oklahoma Surgical Assistant Licensing Act without meeting the requirements of Section 24 of this act if the person:

1. Is a resident of this state;

2. Is at least twenty-one (21) years of age;

3. Provides proof acceptable to the State Board of Medical Licensure and Supervision that the person has acted as a first assistant at surgical procedures for at least one thousand five hundred (1,500) hours during the twenty-four (24) months preceding the date of application under this section;

4. Provides proof acceptable to the medical board that the person has successfully completed the basic science courses listed under subsection B of Section 24 of this act in a curriculum approved by the medical board;

5. Derives the majority of the income of the person as a surgical assistant; and

6. Applies for a license under this section before November 1, 2007.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.28 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Board of Surgical Assistants, through the executive director of the State Board of Medical Licensure and Supervision, may issue a temporary license to an applicant who:

1. Submits an application on a form prescribed by the medical board;

2. Has passed an examination recognized by the advisory board relating to the practice of surgical assisting;

3. Pays the appropriate fee set by the medical board;

4. If licensed in another state, is in good standing as a surgical assistant; and

5. Meets all the qualifications for a license under the Oklahoma Surgical Assistant Licensing Act and is waiting for the next scheduled meeting of the medical board for the license to be issued.

B. A temporary license is valid for one hundred (100) days after the date issued and may be extended until the one-hundred-thirtieth day after the date issued.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.29 of Title 59, unless there is created a duplication in numbering, reads as follows:

The State Board of Medical Licensure and Supervision shall provide administrative and clerical employees as necessary to enable the Board of Surgical Assistants to administer the Oklahoma Surgical Assistant Licensing Act.

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.30 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Medical Licensure and Supervision shall set and collect fees in amounts that are reasonable and necessary to cover the costs of administering and enforcing the Oklahoma Surgical Assistant Licensing Act without the use of any other funds generated by the medical board.

B. Fees collected by the medical board under the Oklahoma Surgical Assistant Licensing Act shall be deposited by the medical board in the State Treasury to the credit of an account in the general revenue fund and may be spent to cover the costs of administering and enforcing the Oklahoma Surgical Assistant Licensing Act. At the end of each fiscal year, the State Treasurer shall transfer any surplus money remaining in the account to the General Revenue Fund.

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.31 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. After consulting the Board of Surgical Assistants, the State Board of Medical Licensure and Supervision shall issue a surgical assistant license in this state to a person who meets the requirements and the rules promulgated under the Oklahoma Surgical Assistant Licensing Act.

B. The medical board may waive any prerequisite to obtaining a license for an applicant after reviewing the credentials of the applicant and determining that the applicant holds a valid license from another state that has license requirements substantially equivalent to those of this state.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.32 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Medical Licensure and Supervision, by rule, shall provide for the annual renewal of a surgical assistant license.

B. The medical board, by rule, may promulgate a system under which licenses expire on various dates during the year. For the year in which the license expiration date is changed, license fees shall be prorated on a monthly basis so that each license holder pays only that portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

SECTION 33. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.33 of Title 59, unless there is created a duplication in numbering, reads as follows:

At least thirty (30) days before the expiration of the license of a person, the Board of Surgical Assistants shall send written notice of the impending license expiration to the person at the last known address, according to the records of the advisory board, of the license holder.

SECTION 34. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.34 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A person, otherwise eligible to renew a license, may renew an unexpired license by paying the required renewal fee to the State Board of Medical Licensure and Supervision before the expiration date of the license. A person whose license has expired may not engage in activities that require a license until the license has been renewed under this section.

B. If the license of the person has been expired for ninety (90) days or less, the person may renew the license by paying to the medical board one and one-half times the required renewal fee.

C. If the license of the person has been expired for longer than ninety (90) days, but less than one (1) year, the person may renew the license by paying to the medical board twice the required renewal fee.

D. If the license of the person has been expired for one (1) year or longer, the person may not renew the license. The person may obtain a new license by complying with the requirements and procedures for obtaining an original license.

SECTION 35. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.35 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. If the person was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two (2) years preceding application, the person may renew an expired license without reexamination.

B. The person must pay to the State Board of Medical Licensure and Supervision a fee that is equal to twice the required renewal fee for the license.

SECTION 36. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.36 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Each license holder shall file with the Board of Surgical Assistants:

1. The mailing address of the license holder;
2. The residential address of the license holder; and
3. The location of office addresses of the license holder if those addresses are different from the mailing address of the offices.

B. A license holder shall:

1. Notify the advisory board of a change of the residence or business address of the license holder; and

2. Provide the advisory board with the new address of the license holder no later than thirty (30) days from the date the address change occurs.

SECTION 37. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.37 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The practice of a surgical assistant includes medical services delegated by the supervising physician that are within the education, training, and experience of the surgical assistant.

B. Medical services provided by a surgical assistant may include:

1. Moving and positioning patients for surgery;
2. Retracting tissue and exposing the operative field during operative procedures;
3. Clamping, dividing, and tying tissues to control bleeding during surgical entry;
4. Keeping the operative site dry;
5. Affording the surgeon the best possible exposure of the anatomy incident to the procedure;
6. Assisting in closure of the incision;
7. Applying sutures and wound dressings; and
8. Any other surgical duties authorized and supervised by the delegating physician.

C. The activities listed in subsection B of this section may be performed in any place authorized by a delegating licensed physician, including a clinic, hospital, ambulatory surgical center, or other institutional setting.

SECTION 38. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.38 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Surgical Assistant Licensing Act does not limit the employment arrangement of a surgical assistant licensed under the Oklahoma Surgical Assistant Licensing Act.

B. The Oklahoma Surgical Assistant Licensing Act does not permit the practice of medicine, as defined by Section 492 of Title 59 of the Oklahoma Statutes, by a person issued a license under the Oklahoma Surgical Assistant Licensing Act.

SECTION 39. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.39 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Medical Licensure and Supervision may revoke, suspend, or refuse to issue or renew a license or may limit the scope of practice of a license holder if the license holder acts as a surgical assistant in violation of the Oklahoma Surgical Assistant Licensing Act or a rule of the medical board.

B. The medical board may place on probation a person whose license is suspended. If a license suspension is probated, the medical board may require the person to:

1. Report regularly to the medical board on matters that are the basis of the probation;

2. Limit practice to the areas prescribed by the medical board;  
or

3. Continue or review professional education until the person attains a degree of skill satisfactory to the medical board in those areas that are the basis of the probation.

SECTION 40. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.40 of Title 59, unless there is created a duplication in numbering, reads as follows:

The State Board of Medical Licensure and Supervision may take action under Section 39 of this act against an applicant or license holder who:

1. Fraudulently or deceptively obtains or attempts to obtain a license;

2. Fraudulently or deceptively uses a license;

3. Fraudulently alters any surgical assistant license, certificate, or diploma;

4. Uses any surgical assistant license, certificate, or diploma that has been fraudulently purchased, issued, or counterfeited or that has been materially altered;

5. Directly or indirectly aids or abets the practice as a surgical assistant by any person not duly licensed by the medical board to practice as a surgical assistant; or

6. Unlawfully advertises in a false, misleading, or deceptive manner.

SECTION 41. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.41 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Medical Licensure and Supervision may take action under Section 39 of this act against an applicant or license holder who:

1. Violates the Oklahoma Surgical Assistant Licensing Act or a rule promulgated under the Oklahoma Surgical Assistant Licensing Act;

2. Is convicted of a felony, placed on deferred adjudication, or placed in a pretrial diversion program; or

3. Violates state law if the violation is connected with practice as a surgical assistant.

B. A complaint, indictment, or conviction of a law violation is not necessary for the medical board to act under paragraph 3 of subsection A of this section. Proof of the commission of the act while in practice as a surgical assistant or under the guise of practice as a surgical assistant is sufficient for action by the medical board.

SECTION 42. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.42 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Medical Licensure and Supervision may take action under Section 39 of this act against an applicant or license holder who:

1. Habitually uses drugs or intoxicating liquors to the extent that, in the opinion of the medical board, the person cannot safely perform as a surgical assistant;
2. Has been adjudicated as mentally incompetent;
3. Has a mental or physical condition that renders the person unable to safely perform as a surgical assistant;
4. Has committed an act of moral turpitude;
5. Has failed to practice as a surgical assistant in an acceptable manner consistent with public health and welfare;
6. Represents that the person is a physician;
7. Has acted in an unprofessional or dishonorable manner that is likely to deceive, defraud, or injure any member of the public;
8. Has had the license of the person or other authorization to practice as a surgical assistant suspended, revoked, or restricted;
9. Has had other disciplinary action taken by another state or by the Armed Services of the United States regarding practice as a surgical assistant;
10. Is removed or suspended or has disciplinary action taken by the peers of the person in any professional association or society or is being disciplined by a licensed hospital or medical staff of a hospital, including removal, suspension, limitation of privileges, or other disciplinary action, if that action, in the opinion of the medical board, was based on unprofessional conduct or professional incompetence that was likely to harm the public;

11. Has repeated or recurring meritorious health care liability claims that, in the opinion of the medical board, are evidence of professional incompetence likely to harm the public; or

12. Sexually abuses or exploits another person during the practice of the license holder as a surgical assistant.

B. For the purpose of paragraph 9 of subsection A of this section, a certified copy of the record of the state or Armed Services of the United States taking the action constitutes conclusive evidence of that action.

C. An action described by paragraph 10 of subsection A of this section does not constitute state action on the part of the association, society, or hospital medical staff.

SECTION 43. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.43 of Title 59, unless there is created a duplication in numbering, reads as follows:

In a disciplinary investigation or proceeding conducted under the Oklahoma Surgical Assistant Licensing Act, the Board of Surgical Assistants shall protect the identity of each patient whose medical records are examined and used in a public proceeding unless the patient:

1. Testifies in the public proceeding; or
2. Submits a written release in regard to the records of the patient or identity.

SECTION 44. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.44 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A license holder is entitled to an administrative hearing before a sanction is imposed under the Oklahoma Surgical Assistant Licensing Act.

B. The State Board of Medical Licensure and Supervision, by rule, shall promulgate a broad schedule of sanctions for violations under the Oklahoma Surgical Assistant Licensing Act.

SECTION 45. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.45 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A person who violates Section 22 of this act or subsection B of Section 38 of this act or a rule or order promulgated by the State Board of Medical Licensure and Supervision under the Oklahoma Surgical Assistant Licensing Act is liable for a civil penalty not to exceed One Thousand Dollars (\$1,000.00) per day.

B. At the request of the Board of Surgical Assistants or the State Board of Medical Licensure and Supervision, the Attorney General shall bring an action to recover a civil penalty authorized under this section.

SECTION 46. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.46 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A person required to hold a license under the Oklahoma Surgical Assistant Licensing Act commits an offense if the person knowingly acts as a surgical assistant without holding a license issued under the Oklahoma Surgical Assistant Licensing Act.

B. Any person convicted of violating the provisions of subsection A of this section is guilty of a felony.

SECTION 47. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3130.47 of Title 59, unless there is created a duplication in numbering, reads as follows:

The State Board of Medical Licensure and Supervision may seek an injunction against a violation of the Oklahoma Surgical Assistant Licensing Act or any rule promulgated pursuant to the Oklahoma Surgical Assistant Licensing Act.

SECTION 48. This act shall become effective January 1, 2007.

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