

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2867

6 By: Wallace

7 COMMITTEE SUBSTITUTE

8 An Act relating to professions and occupations;
9 amending 59 O.S. 2021, Section 509, which relates to
10 unprofessional conduct; adding a provision of
11 unprofessional conduct; and providing an effective
12 date.

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

14 SECTION 1. AMENDATORY 59 O.S. 2021, Section 509, is
15 amended to read as follows:

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

- 19 1. Procuring, aiding or abetting a criminal operation;
- 20 2. The obtaining of any fee or offering to accept any fee,
21 present or other form of remuneration whatsoever, on the assurance
22 or promise that a manifestly incurable disease can or will be cured;
- 23 3. Willfully betraying a professional secret to the detriment
24 of the patient;

1 4. Habitual intemperance or the habitual use of habit-forming
2 drugs;

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

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

9 7. Conviction or confession of, or plea of guilty, nolo
10 contendere, no contest or Alford plea to a crime involving violation
11 of:

12 a. the antinarcotic or prohibition laws and regulations
13 of the federal government,

14 b. the laws of this state,

15 c. State Commissioner of Health rules, or

16 d. a determination by a judge or jury;

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

19 9. The commission of any act which is a violation of the
20 criminal laws of any state when such act is connected with the
21 physician's practice of medicine. A complaint, indictment or
22 confession of a criminal violation shall not be necessary for the
23 enforcement of this provision. Proof of the commission of the act
24

1 while in the practice of medicine or under the guise of the practice
2 of medicine shall be unprofessional conduct;

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

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

8 12. Prescribing or administering a drug or treatment without
9 sufficient examination and the establishment of a valid physician-
10 patient relationship and not prescribing in a safe, medically
11 accepted manner;

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

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

19 15. The inability to practice medicine with reasonable skill
20 and safety to patients by reason of age, illness, drunkenness,
21 excessive use of drugs, narcotics, chemicals, or any other type of
22 material or as a result of any mental or physical condition. In
23 enforcing this section the State Board of Medical Licensure and
24 Supervision may, upon probable cause, request a physician to submit

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

- 17 16. a. Prescribing, dispensing or administering of controlled
18 substances or narcotic drugs in excess of the amount
19 considered good medical practice,
20 b. Prescribing, dispensing or administering controlled
21 substances or narcotic drugs without medical need in
22 accordance with pertinent licensing board standards,
23 or
24

1 c. Prescribing, dispensing or administering opioid drugs
2 in excess of the maximum limits authorized in Section
3 2-309I of Title 63 of the Oklahoma Statutes;

4 17. Engaging in physical conduct with a patient which is sexual
5 in nature, or in any verbal behavior which is seductive or sexually
6 demeaning to a patient;

7 18. Failure to maintain an office record for each patient which
8 accurately reflects the evaluation, treatment, and medical necessity
9 of treatment of the patient;

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

14 20. Performance of an abortion as defined by Section 1-730 of
15 Title 63 of the Oklahoma Statutes, except for an abortion necessary
16 to prevent the death of the mother or to prevent substantial or
17 irreversible physical impairment of the mother that substantially
18 increases the risk of death. The performance of an abortion on the
19 basis of the mental or emotional health of the mother shall be a
20 violation of this paragraph, notwithstanding a claim or diagnosis
21 that the woman may engage in conduct which she intends to result in
22 her death. The Board shall impose a penalty as provided in Section
23 509.1 of this title on a licensee who violates this paragraph. The
24

1 penalty shall include, but not be limited to, suspension of the
2 license for a period of not less than one (1) year; ~~or~~

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

10 22. Failure to administer or order a test or screening of a
11 tick-borne disease when a patient requests the test or screening and
12 the test or screening is covered by insurance or the patient is
13 willing to pay for the test or screening out-of-pocket.

14 SECTION 2. This act shall become effective November 1, 2023.

15

16 59-1-7705 JM 02/23/23

17

18

19

20

21

22

23

24