

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1984

By: McEntire

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5
6 AS INTRODUCED

7 An Act relating to laser hair removal; amending 59
8 O.S. 2021, Section 492, which relates to practice of
9 medicine and surgery; adding laser by a laser
10 practitioner as an exception to the definition of
11 surgery; providing definitions; providing
12 requirements; providing qualifications; providing for
13 codification; and providing an effective date.

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

15 SECTION 1. AMENDATORY 59 O.S. 2021, Section 492, is
16 amended to read as follows:

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

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

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

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

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

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- 1 3. a. any offer or attempt, except as otherwise authorized
2 by law, to prevent, diagnose, correct, or treat in any
3 manner or by any means, methods, devices, or
4 instrumentalities, except for manual manipulation, any
5 disease, illness, pain, wound, fracture, infirmity,
6 defect, or abnormal physical or mental condition of
7 any person, including the management of pregnancy and
8 parturition, except as otherwise authorized by law,
9 b. except as provided in subsection D of this section,
10 performance by a person within or outside of this
11 state, through an ongoing regular arrangement, of
12 diagnostic or treatment services, including, but not
13 limited to, stroke prevention and treatment, through
14 electronic communications for any patient whose
15 condition is being diagnosed or treated within this
16 state by a physician duly licensed and practicing in
17 this state. A person who performs any of the
18 functions covered by this subparagraph submits himself
19 or herself to the jurisdiction of the courts of this
20 state for the purposes of any cause of action
21 resulting from the functions performed, and
22 c. nothing in the Oklahoma Allopathic Medical and
23 Surgical Licensure and Supervision Act shall be
24 construed to affect or give jurisdiction to the Board

1 over any person other than medical doctors or persons
2 holding themselves out as medical doctors;

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

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

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

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

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

23 3. A commissioned medical officer of the Armed Forces of the
24 United States or medical officer of the United States Public Health

1 Service or the United States Department of Veterans Affairs ~~of the~~
2 ~~United States~~ in the discharge of official duties and/or within
3 federally controlled facilities; and provided that such person shall
4 be fully licensed to practice medicine and surgery in one or more
5 jurisdictions of the United States; provided further that such
6 person who holds a medical license in this state shall be subject to
7 the provisions of the Oklahoma Allopathic Medical and Surgical
8 Licensure and Supervision Act;

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

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

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

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

22 8. Any person who is licensed to practice medicine and surgery
23 in another state or territory of the United States whose sole
24 purpose and activity is limited to brief actual consultation with a

1 specific physician who is licensed to practice medicine and surgery
2 by the Board, other than a person with a special or restricted
3 license; ~~or~~

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

10 10. The practice of using a laser to accomplish permanent hair
11 removal by a laser practitioner.

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

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

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

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

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

12 SECTION 2. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 492.2 of Title 59, unless there
14 is created a duplication in numbering, reads as follows:

15 As used in this section:

16 A. 1. "Laser" means a device approved by the State Department
17 of Health and the United States Food and Drug Administration (FDA)
18 for laser hair removal;

19 2. "Laser hair removal" means the use of a laser or intense
20 pulsed light device for nonablative hair removal procedures;

21 3. "Laser hair removal facility" means a business location that
22 provides laser hair removal;

23 4. "Laser practitioner" means someone who holds a valid license
24 or certificate of registration as a doctor of medicine (MD), doctor

1 of osteopathic medicine (DO), physician assistant (PA), nurse
2 practitioner (NP), advanced practice registered nurse (APRN),
3 registered nurse (RN), or licensed practical nurse (LPN) also known
4 as licensed vocational nurse (LVN);

5 5. "Maintenance of Certification" means a continuing education
6 program measuring core competencies in the practice of medicine and
7 surgery and approved by a nationally recognized accrediting
8 organization;

9 6. "Nonablative hair removal procedure" means a hair removal
10 procedure using a laser device that does not remove the epidermis;
11 and

12 7. "Operator" means the owner of a laser hair removal facility,
13 an agent of an owner, or an independent contractor of a laser hair
14 removal facility.

15 B. A laser practitioner may perform cosmetic laser hair removal
16 using lasers or pulsed light devices approved by the United States
17 Food and Drug Administration (FDA) for noninvasive procedures.
18 Physicians may delegate to laser practitioners general supervision.
19 The supervising physician is not required to be on-site for laser
20 procedures for hair removal, but shall be available for direct
21 communication, either in person or by telephone, radio,
22 radiotelephone, television, or similar means. A person shall not
23 perform or attempt to perform laser hair removal unless the person
24 holds the appropriate license or certificate.

1 C. In order to qualify as a supervising physician, the
2 physician must be currently licensed to practice medicine in
3 Oklahoma. The supervising physician shall establish proper
4 protocols for the cosmetic laser services provided at a facility.

5 D. Nothing in the Oklahoma Allopathic Medical and Surgical
6 Licensure and Supervision Act shall prohibit:

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

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

15 E. Nothing in the Oklahoma Allopathic Medical and Surgical
16 Licensure and Supervision Act shall prohibit services rendered by
17 any person not licensed by the Board and practicing any
18 nonallopathic healing arts.

19 F. Nothing in the Oklahoma Allopathic Medical and Surgical
20 Licensure and Supervision Act shall be construed as to require a
21 physician to secure a Maintenance of Certification as a condition of
22 licensure, reimbursement, employment, or admitting privileges at a
23 hospital in this state.

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SECTION 3. This act shall become effective November 1, 2023.

59-1-7142 TJ 01/18/23