

# An Act

ENROLLED SENATE  
BILL NO. 597

By: Newhouse of the Senate

and

Hasenbeck of the House

An Act relating to the State Board of Medical Licensure and Supervision; amending 59 O.S. 2021, Section 481, which relates to membership of the Board; allowing graduates of certain foreign medical schools to serve on the Board; allowing retired physicians to serve on the Board under certain condition; amending 59 O.S. 2021, Section 482, which relates to appointment to the Board; limiting certain restriction on appointment; amending 59 O.S. 2021, Section 509.1, which relates to disciplinary actions; making letters of concern privileged; requiring Board to keep certain information confidential and privileged; permitting information to be offered in certain proceedings; providing certain exclusions from specified law and proceedings; authorizing certain provision of information under specified conditions; amending 59 O.S. 2021, Section 503.2, which relates to administrative remedies for licensee violations; specifying applicability of remedies; amending 59 O.S. 2021, Section 536.8, as amended by Section 1, Chapter 153, O.S.L. 2023 (59 O.S. Supp. 2023, Section 536.8), which relates to Registered Electrologists; eliminating certain requirements for licensees and county clerks; making language gender neutral; amending 59 O.S. 2021, Sections 2030 and 3203, which relate to duties of the Board; excluding social security number from certain information sharing requirements; establishing Anesthesiologist Assistants Advisory Committee; providing for appointment of members, expiration of terms, and filling of vacancies; prohibiting and requiring certain compensation; stating powers and duties;

amending 59 O.S. 2021, Section 4000.1, as last amended by Section 1 of Enrolled House Bill No. 3634 of the 2nd Session of the 59th Oklahoma Legislature, which relates to grounds for denial of a license or certification to practice an occupation; modifying applicability of section; updating statutory language; providing for codification; and providing an effective date.

SUBJECT: State Board of Medical Licensure and Supervision

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

SECTION 1. AMENDATORY 59 O.S. 2021, Section 481, is amended to read as follows:

Section 481. A. A State Board of Medical Licensure and Supervision hereinafter referred to as the "Board", is hereby re-created, to continue until July 1, 2024, in accordance with the provisions of the Oklahoma Sunset Law. The Board shall be composed of seven (7) allopathic physicians licensed to practice medicine in this state and represent the public and four (4) lay members.

B. The physician members of the Board shall be graduates of legally chartered medical schools recognized by the Oklahoma State Regents for Higher Education or the Liaison ~~Council~~ Committee on Medical Education or foreign medical schools recognized by the State Board of Medical Licensure and Supervision. The physician members shall ~~have~~ :

1. Be currently licensed physicians who have actively practiced as licensed physicians continuously in this state for the three (3) years immediately preceding their appointment to the Board; or

2. Be retired physicians; provided, that such physicians must demonstrate satisfactorily to the Board that since retirement they have remained in compliance with, and are currently in compliance with, continuing medical education requirements of the Board.

C. All members of the Board shall be residents of this state and shall be appointed by the Governor as provided for in Section 482 of this title. All present members of the Board shall continue to serve for the remainder of their current terms.

SECTION 2. AMENDATORY 59 O.S. 2021, Section 482, is amended to read as follows:

Section 482. Physician members of the State Board of Medical Licensure and Supervision shall be appointed for terms of seven (7) years. The lay members of the Board shall serve terms coterminous with that of the Governor and until a qualified successor has been duly appointed and shall serve at the pleasure of the Governor. No member shall be appointed to serve more than two complete consecutive terms. Each physician member shall hold office until the expiration of the term for which appointed or until a qualified successor has been duly appointed. An appointment shall be made by the Governor within ninety (90) days after the expiration of the term of any member or the occurrence of a vacancy on the Board due to resignation, death, or any cause resulting in an unexpired term. The appointment of allopathic physicians shall be made from a list of three names submitted to the Governor by the Oklahoma State Medical Association. The Association may submit names of members or nonmembers of the Association. No member of the Board shall be a stockholder in ~~or full-time salaried or full-time geographic member of the faculty or board of trustees of~~ any medical school.

SECTION 3. AMENDATORY 59 O.S. 2021, Section 509.1, is amended to read as follows:

Section 509.1. A. RANGE OF ACTIONS: The State Board of Medical Licensure and Supervision may impose disciplinary actions in accordance with the severity of violation of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act. Disciplinary actions may include, but are not limited to the following:

1. Revocation of the medical license with or without the right to reapply;
2. Suspension of the medical license;
3. Probation;

4. Stipulations, limitations, restrictions, and conditions relating to practice;

5. Censure, including specific redress, if appropriate;

6. Reprimand;

7. A period of free public or charity service;

8. Satisfactory completion of an educational, training, and/or treatment program or programs; and

9. Administrative fines of up to Five Thousand Dollars (\$5,000.00) per violation.

Provided, as a condition of disciplinary action sanctions, the Board may impose as a condition of any disciplinary action, the payment of costs expended by the Board for any legal fees and costs and probation and monitoring fees including, but not limited to, staff time, salary and travel expense, witness fees and attorney fees. The Board may take such actions singly or in combination as the nature of the violation requires.

B. LETTER OF CONCERN: The Board may authorize the secretary to issue a confidential and privileged letter of concern to a licensee when evidence does not warrant formal proceedings, but the secretary has noted indications of possible errant conduct that could lead to serious consequences and formal action. The letter of concern may contain, at the secretary's discretion, clarifying information from the licensee.

C. EXAMINATION/EVALUATION: The Board may, upon reasonable cause, require professional competency, physical, mental, or chemical dependency examinations of any licensee, including withdrawal and laboratory examination of body fluids.

D. DISCIPLINARY ACTION AGAINST LICENSEES:

1. The Board shall promulgate rules describing acts of unprofessional or unethical conduct by physicians pursuant to the

Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act; and

2. Grounds for Action: The Board may take disciplinary action for unprofessional or unethical conduct as deemed appropriate based upon the merits of each case and as set out by rule. The Board shall not revoke the license of a person otherwise qualified to practice allopathic medicine within the meaning of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act solely because the person's practice or a therapy is experimental or nontraditional.

Reports of all disciplinary action provided for in this section will be available to the public upon request. Investigative files shall remain confidential and privileged. The Board, its employees, or other agents of the Board shall keep confidential and privileged all information that initiated, was obtained during, or is related to an investigation into possible violations of any and all acts governing any and all professional licensees under the legislative jurisdiction of the State Board of Medical Licensure and Supervision. However, such information may be offered by the state in administrative proceedings before the Board and if admitted the information then becomes a public record. Unless admitted into administrative proceedings, the information shall not be deemed to be a record as that term is defined in the Oklahoma Open Records Act, nor shall the information be subject to subpoena or discovery in any civil or criminal proceedings, except that the Board may give such information to law enforcement and other state agencies as necessary and appropriate in the discharge of the duties of that agency and only under circumstances that ensure against unauthorized access to the information.

E. SURRENDER IN LIEU OF PROSECUTION:

1. The Board may accept a surrender of license from a licensee who has engaged in unprofessional conduct in lieu of Board staff prosecuting a pending disciplinary action or filing formal disciplinary proceedings only as provided in this section. To effect such a surrender, the licensee must submit a sworn statement to the Board:

- a. expressing the licensee's desire to surrender the license,
- b. acknowledging that the surrender is freely and voluntarily made, that the licensee has not been subjected to coercion or duress, and that the licensee is fully aware of the consequences of the license surrender,
- c. stating that the licensee is the subject of an investigation or proceeding by the Board or a law enforcement or other regulatory agency involving allegations which, if proven, would constitute grounds for disciplinary action by the Board, and
- d. specifically admitting to and describing the misconduct.

2. The sworn written statement must be submitted with the licensee's wallet card and wall certificate. The Secretary or Executive Director of the Board may accept the sworn statement, wallet card and wall certificate from a licensee pending formal acceptance by the Board. The issuance of a complaint and citation by the Board shall not be necessary for the Board to accept a surrender under this subsection. A surrender under this subsection shall be considered disciplinary action by the Board in all cases, even in cases where surrender occurs prior to the issuance of a formal complaint and citation, and shall be reported as disciplinary action by the Board to the public and any other entity to whom the Board regularly reports disciplinary actions.

3. As a condition to acceptance of the surrender, the Board may require the licensee to pay the costs expended by the Board for any legal fees and costs and any investigation, probation and monitoring fees including, but not limited to, staff time, salary and travel expense, witness fees and attorney fees.

4. The licensee whose surrender in lieu of prosecution is accepted by the Board shall be ineligible to reapply for reinstatement of his or her license for at least one (1) year from the date of the accepted surrender.

F. ALL LICENSED PROFESSIONALS: All disciplinary actions defined in this section are applicable to any and all professional licensees under the legislative jurisdiction of the State Board of Medical Licensure and Supervision.

SECTION 4. AMENDATORY 59 O.S. 2021, Section 503.2, is amended to read as follows:

Section 503.2. A. The State Board of Medical Licensure and Supervision may promulgate rules to create administrative remedies for licensee violations of statutory or regulatory prescribed unprofessional conduct.

B. The Board is authorized to prescribe by rule administrative remedies, disciplinary actions and administrative procedures to provide remedies and disciplinary actions for licensee violations of statutory or regulatory prescribed unprofessional conduct, to include fines up to the limits otherwise prescribed by statute or rule.

C. Any such administrative action rules promulgated by the Board shall provide procedure:

1. For the licensee to contest or dispute any administrative action;

2. For procedures for resolution of any such contest or dispute; and

3. For appropriate protection of private information consistent with state and federal law.

D. ALL LICENSED PROFESSIONALS: All administrative remedies defined in this section are applicable to any and all professional licensees under the legislative jurisdiction of the State Board of Medical Licensure and Supervision.

SECTION 5. AMENDATORY 59 O.S. 2021, Section 536.8, as amended by Section 1, Chapter 153, O.S.L. 2023 (59 O.S. Supp. 2023, Section 536.8), is amended to read as follows:

Section 536.8. Every person who is licensed pursuant to the provisions of the Registered Electrologist Act to practice electrolysis in this state shall keep ~~said~~ the license displayed in his place of business as long as he or she is engaged in the practice of electrolysis. The receipt for the annual renewal of license shall be kept at such person's place of business and shall be shown to any person requesting to see the same. The licensee shall keep the Board informed of his or her current address. A license issued by the Board is the property of the Board and shall be surrendered on demand of the Board.

SECTION 6. AMENDATORY 59 O.S. 2021, Section 2030, is amended to read as follows:

Section 2030. The State Board of Medical Licensure and Supervision shall:

1. Examine, license and renew the licenses of duly qualified applicants;

2. Maintain an up-to-date list of every person licensed to practice respiratory care pursuant to the Respiratory Care Practice Act. The list shall show the licensee's last-known place of employment, last-known place of residence, and the date and number of the license;

3. Cause the prosecution of all persons violating the Respiratory Care Practice Act and incur necessary expenses therefor;

4. Keep a record of all proceedings of the Board and make such record available to the public for inspection during reasonable business hours;

5. Conduct hearings upon charges calling for discipline of a licensee, or denial, revocation or suspension of a license; and

6. Share information on a case-by-case basis of any person whose license has been suspended, revoked or denied. This information shall include the name, ~~social security number~~, type and cause of action, date and penalty incurred, and the length of penalty. This information shall be available for public inspection



during reasonable business hours and shall be supplied to similar boards in other states upon request.

SECTION 7. AMENDATORY 59 O.S. 2021, Section 3203, is amended to read as follows:

Section 3203. The State Board of Medical Licensure and Supervision shall:

1. Examine, license and renew the licenses of duly qualified applicants;

2. Maintain an up-to-date list of every person licensed to practice pursuant to the Oklahoma Anesthesiologist Assistant Act. The list shall show the licensee's last-known place of employment, last-known place of residence, and the date and number of the license;

3. Cause the prosecution of all persons violating the Oklahoma Anesthesiologist Assistant Act and incur necessary expenses therefor;

4. Keep a record of all proceedings of the Board and make such record available to the public for inspection during reasonable business hours;

5. Conduct hearings upon charges calling for discipline of a licensee, or denial, revocation or suspension of a license; and

6. Share information on a case-by-case basis of any person whose license has been suspended, revoked or denied. The information shall include the name, ~~social security number~~, type and cause of action, date and penalty incurred, and the length of penalty. The information shall be available for public inspection during reasonable business hours and shall be supplied to similar boards in other states upon request.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3209 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. There is hereby established the Anesthesiologist Assistants Advisory Committee to advise the State Board of Medical Licensure and Supervision on matters pertaining to the licensure, education, and continuing education of licensed anesthesiologist assistants and the practice of anesthesiologist assistants.

B. The Board shall appoint five (5) members to the Anesthesiologist Assistants Advisory Committee as follows:

1. Three members shall be qualified physicians who have been actively practicing anesthesiology in this state for at least five (5) years; and

2. Two members shall be licensed anesthesiologist assistants who have been actively practicing as an anesthesiologist assistant in this state for at least three (3) years.

C. The physician members of the Committee shall be appointed for staggered terms of one (1), two (2), and three (3) years, respectively.

D. Terms of office of each appointed member shall expire July 1 of that year in which they expire regardless of the calendar date when such appointments were made. Subsequent appointments shall be made for a term of three (3) years or until successors are appointed and qualified.

E. Vacancies shall be filled by the Board in the same manner as the original appointment.

F. Members of the Committee shall serve without compensation, except that members shall be reimbursed for necessary travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

G. The Committee shall have the power and duty to:

1. Meet at least twice a year or as otherwise called by the Board; and

2. Advise the Board on matters pertaining to the licensure, education, and continuing education requirements for and the practice of anesthesiologist assistants in this state.

SECTION 9. AMENDATORY 59 O.S. 2021, Section 4000.1, as last amended by Section 1 of Enrolled House Bill No. 3634 of the 2nd Session of the 59th Oklahoma Legislature, is amended to read as follows:

Section 4000.1. A. As used in this section:

1. "Substantially relate" means the nature of the criminal conduct for which the person was convicted has a direct bearing on the fitness or ability to perform one or more of the duties or responsibilities necessarily related to the occupation; and

2. "Pose a reasonable threat" means the nature of the criminal conduct for which the person was convicted involved an act or threat of harm against another and has a bearing on the fitness or ability to serve the public or work with others in the occupation.

B. Notwithstanding any other provision of law, a conviction, plea of guilty or nolo contendere, or pending criminal charge of a crime may be grounds for the denial of an applicant for a state license or state certification to practice an occupation only if the underlying offense substantially relates to the duties and responsibilities of the occupation and poses a reasonable threat to public safety, health, or welfare. When making a determination pursuant to this subsection, a licensing or certification authority shall consider:

1. The nature and seriousness of the offense;
2. The amount of time that has passed since the offense;
3. The age of the person at the time the offense was committed;
4. Evidence relevant to the circumstances of the offense including any aggravating or mitigating circumstances of social conditions surrounding the commission of the offense;

5. The nature of the specific duties and responsibilities for which the license or certification is required; and

6. Any evidence of rehabilitation submitted by the applicant including, but not limited to, evidence related to the person's compliance with any conditions of community supervision, parole, or mandatory supervision, the conduct and work activity of the person, programming, or treatment undertaken by the person, and testimonials or personal reference statements.

C. Notwithstanding any other provision of law, a licensing or certification authority shall not deny a state license or state certification to practice an occupation due to:

1. An arrest that was not followed by a valid plea of guilty or nolo contendere unless charges are currently pending;

2. A conviction that has been sealed, or expunged;

3. A conviction or plea of guilty or nolo contendere for which more than five (5) years have elapsed since the date of conviction, plea, or release from incarceration, whichever is later, so long as the person has not been convicted of a new crime. This paragraph shall not apply to any conviction or plea of guilty or nolo contendere for:

a. an offense enumerated in Section 571 of Title 57 of the Oklahoma Statutes,

b. a felony involving domestic assault, domestic assault and battery, or domestic abuse as defined in Section 644 of Title 21 of the Oklahoma Statutes,

c. an offense that would require registration as a sex offender pursuant to the Sex Offenders Registration Act, or

d. any equivalent law enumerated in this paragraph from another jurisdiction; or

4. A finding that an applicant lacks good character or fails to meet any other similarly vague standard where a criminal conviction is the basis for the finding.

D. Before a state licensing or state certification authority makes a final determination that a criminal conviction, plea of guilty or nolo contendere, or pending criminal charge may disqualify an applicant for licensure, that authority shall provide written notice of:

1. The specific offense that is the basis for the intended denial;

2. The reasons the offense was determined to substantially relate to the duties and responsibilities of the occupation and posed a reasonable threat to public safety, health, or welfare, including findings for each of the factors in subsection B of this section that the licensing or certification authority deemed relevant to the determination; and

3. The right to submit additional evidence relevant to each of the factors listed in subsection B of this section within thirty (30) days, which the licensing or certification authority shall consider before issuing a final determination.

E. A final determination that a criminal conviction, plea of guilty or nolo contendere, or pending criminal charge may prevent a person from receiving a license shall be in writing and include notice of the right to appeal the determination pursuant to the Administrative Procedures Act, or a more specific statutory authority, and notice of the earliest date the applicant may reapply for a license.

F. A person with a criminal history record may request a determination of whether his or her criminal history record may disqualify him or her from obtaining the desired license or certification in the occupation from a state licensing or state certification authority at any time, including before obtaining any required education or training for such occupation. The request shall be in writing and shall include either a copy of the person's criminal history record with explanation of each conviction mentioned in the criminal history record or a statement describing

each criminal conviction including the date of each conviction, the court of jurisdiction and the sentence imposed. The person may include a statement with his or her request describing additional information for consideration by the licensing or certification authority including, but not limited to, information relevant to any of the factors for consideration described in subsection B of this section.

G. Upon receipt of a written request for consideration of a criminal history record for an occupation as provided in subsection F of this section, the licensing or certification authority shall evaluate the request and make a determination based upon the information provided in such request whether the stated conviction is a disqualifying offense for the occupation. A notice of the determination shall be issued to the petitioner within sixty (60) days from the date such request was received by the licensing or certification authority; except, however, a licensing or certification authority regulating fifty thousand or more members in its occupation shall be allowed ninety (90) days to make its initial determination and issue notice to the requestor.

H. A determination made pursuant to subsection F of this subsection that a person may not be disqualified for licensure or certification due to criminal history shall be binding upon a licensing or certification authority unless, at the time a full application for a license is submitted, the applicant has subsequently pled guilty or nolo contendere to a crime, has pending criminal charges, or has previously undisclosed criminal convictions.

I. The notice of a determination made pursuant to subsection F of this section shall be in writing and mailed to the requestor at the address provided in his or her request, and shall contain the following statements:

1. Whether the person is eligible for licensure or certification in the occupation at the current time based upon the information submitted by the requestor;

2. Whether there is a disqualifying offense that would disqualify the person from engaging in the occupation at the current

time and a statement identifying such offense in the criminal history record or information submitted for consideration;

3. Any actions the person may take to remedy a disqualification, if any;

4. The earliest date the person may submit another request for consideration, if any; and

5. A statement that the determination may be rescinded if, at the time a full application for a license is submitted, the applicant has subsequently pled guilty or nolo contendere to a crime, has pending criminal charges, or has previously undisclosed criminal convictions.

J. A state entity charged with oversight of an occupational license or certification may promulgate forms for requests for determinations for the occupation as authorized in subsection F of this section. Each state licensing or certification authority may charge a fee not to exceed Ninety-five Dollars (\$95.00) for each initial determination of eligibility it makes for the occupation based upon the information provided by the requestor.

K. Each state licensing or state certification authority shall include in its application for a license or certification and publish on its public website the following information:

1. Whether the criminal offenses of applicants may be used as a basis for denial;

2. If criminal history may be used as a basis for denial as listed in subsection B of this section, which offenses the licensing or certification authority shall consider; and

3. Notice of the right to request a determination pursuant to subsection F of this section.

L. Each state licensing or state certification authority authorized to consider the criminal conviction of an applicant shall annually provide to the Legislature, and publish on its public website, the following:

1. The number of license applications received;
2. The number of applications that resulted in a license being granted;
3. The number of applications that resulted in a license being denied;
4. The number of applications that were denied due to criminal history;
5. A list of criminal offenses reported by individuals who were granted a license;
6. A list of criminal offenses reported by individuals who were denied a license due to criminal history along with the time elapsed since the commission of the offense; and
7. The number of petitions received by the licensing or certification authority pursuant to subsection F of this section.

M. The provisions of this section shall not be construed to apply to the Council on Law Enforcement Education and Training, the Bail Bonds Division of the ~~Oklahoma~~ Insurance Department, the State Board of Education, the boards of examiners which are established in Title 20 of the Oklahoma Statutes, the State Board of Medical Licensure and Supervision, or individuals applying to these authorities for licensure or certification.

SECTION 10. This act shall become effective November 1, 2024.



Passed the Senate the 8th day of March, 2023.

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Presiding Officer of the Senate

Passed the House of Representatives the 24th day of April, 2024.

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Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_