

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL 190

By: Rader

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5
6 AS INTRODUCED

7 An Act relating to professions and occupations;
8 creating the Oklahoma Qigong Practice Act; providing
9 short title; defining terms; establishing the
10 Oklahoma Board of Qigong; providing for appointment
11 of membership and terms, vacancy, and removal;
12 setting meetings and quorum; providing for travel
13 reimbursement and per diem and immunity for
14 liability; stating Board duties and responsibilities;
15 authorizing employment or contracts for certain
16 services; creating the Oklahoma Board of Qigong
17 Revolving Fund; stating purpose and source of funds;
18 providing for deposits and expenditures; prohibiting
19 practice of qigong without a license after certain
20 date; prohibiting certain activities; stating license
21 requirements; providing certain exemptions for
22 licensure; construing limitations; stating license
23 qualifications and procedure for application;
24 providing for renewals and reinstatements; requiring
25 certain report for certain purpose; establishing
26 procedure for complaints; authorizing subpoenas for
27 hearings; requiring compliance under the
28 Administrative Procedures Act; stating grounds for
29 unprofessional conduct; allowing reinstatement of
30 license after certain time; providing certain action
31 under certain court orders; providing criminal
32 misdemeanor penalty and administrative fines; setting
33 maximum fine; providing for codification; and
34 providing an effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4350 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as the "Oklahoma Qigong
5 Practice Act".

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 4350.1 of Title 59, unless there
8 is created a duplication in numbering, reads as follows:

9 As used in this act:

10 1. "Board or (OBQ)" means the Oklahoma Board of Qigong;

11 2. "Qigong" means the practice of traditional Chinese medicine
12 (TCM) and classic Chinese medicine (CCM) modalities included under
13 the umbrella of qigong for the therapeutic purpose of promoting,
14 maintaining and restoring health, including the treatment of
15 dysfunctions of the body involving pain, but not to include the
16 practice of acupuncture or martial arts. Similar modalities within
17 the TCM/CCM scope that are certified individually and have their own
18 national or state licensing are not included in this definition;

19 3. "Clinical qigong therapy" means a business or person engaged
20 in the use of specific skills, knowledge and training in qigong for
21 the health and benefit of an individual patient, or group of
22 patients for compensation or valuable consideration. General
23 recreational qigong exercises for self-health or non-specific
24 medical purposes are not included in this definition;

1 4. "Clinical qigong practitioner or (CQP)" means a practitioner
2 licensed in this state who engages in clinical qigong therapy and
3 uses medical qigong treatment modalities to participate directly in
4 the healing process with the patient in which qi emission is
5 included as part of the treatment and includes exercises,
6 meditation, acupressure, qigong medical massage, including Tui Na,
7 Dian Xue, Gua Sha and Qi massage, reflexology, energy work, body
8 work, cupping, prescription of naturally derived substances
9 according to TCM/CCM standards and practices, and therapy meant to
10 address specific medical conditions, including those conditions
11 identified by other professional caregivers licensed by the State of
12 Oklahoma;

13 5. "Qigong teacher" means a teacher licensed in this state who
14 teaches qigong exercises for the use in clinical qigong therapy. A
15 qigong teacher does not participate directly in the healing process
16 with a patient, does not practice qi emission or include those items
17 defined as medical qigong, unless otherwise individually licensed by
18 the State of Oklahoma;

19 6. "Associate clinical qigong practitioner or (ACQP)" means a
20 practitioner holding a current state license in another health-
21 related field that incorporates medical qigong within their scope of
22 practice; provided, he or she meets the criteria required in qigong
23 training as established by the board for licensure;

1 7. "Associate qigong teacher or (AQT)" means a qigong exercise
2 teacher licensed in another health-related field that incorporates
3 only the teaching of qigong exercise; provided, he or she meets
4 requirements for teaching qigong exercises as established by the
5 board for licensure;

6 8. "License" means a license or certificate issued by the board
7 pursuant to this act which entitles the holder to be a clinical
8 qigong practitioner or associate clinical qigong practitioner or to
9 teach qigong exercises for the purpose of clinical qigong therapy as
10 specified on such license or certificate; and

11 9. "Licensee" means a person licensed or certified by the board
12 pursuant to the provisions of this act.

13 SECTION 3. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 4350.2 of Title 59, unless there
15 is created a duplication in numbering, reads as follows:

16 A. The Oklahoma Board of Qigong is hereby created to implement,
17 administer and enforce the provisions of this act and to regulate
18 the practice of clinical qigong therapy.

19 The board shall consist of five (5) qualified members who are
20 legal residents of the State of Oklahoma as follows:

- 21 1. Two members shall represent the public at large;
- 22 2. One member shall be a certified qigong practitioner;
- 23 3. One member shall have been engaged in the practice of qigong
24 for a period of not less than four (4) years; and

1 4. One member shall be a licensed health care professional in
2 this state.

3 B. The governor shall appoint the members of the board. Of the
4 initial members appointed to the board, two members shall be
5 appointed for a term of two (2) years and three members shall be
6 appointed for a term of four (4) years. Thereafter, the term of
7 office shall be four (4) years. Each member shall serve until the
8 member's successor is appointed and qualified. No member shall
9 serve more than two (2) consecutive full terms.

10 C. Any vacancy on the board shall be filled by the governor for
11 the balance of the unexpired term.

12 D. The governor may remove any member from the board for cause.

13 SECTION 4. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 4350.3 of Title 59, unless there
15 is created a duplication in numbering, reads as follows:

16 The Oklahoma Board of Qigong shall meet at least once each year
17 and elect a chair at the first meeting each year. The board may
18 convene at the request of the chair or as determined by the board
19 for any other meetings deemed necessary to transact its business.
20 Meetings may be carried out via telecommunications. Three board
21 members shall constitute a quorum. Meetings shall follow the Open
22 Meetings Act regarding notice.

1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4350.4 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Members of the Oklahoma Board of Qigong shall not receive
5 compensation for their services but shall receive mileage and per
6 diem as provided in the Oklahoma Travel and Reimbursement Act while
7 engaged in the discharge of official duties.

8 B. Members of the board shall have the same immunities from
9 personal liability as state employees for actions taken in the
10 performance of their duties under this act.

11 SECTION 6. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 4350.5 of Title 59, unless there
13 is created a duplication in numbering, reads as follows:

14 A. The Oklahoma Board of Qigong shall:

- 15 1. Administer and enforce the provisions of this act;
- 16 2. Determine the standards for licensure or certification for
17 qigong teachers, schools and clinical practitioners, including:
 - 18 a. continuing education requirements,
 - 19 b. professional conduct standards,
 - 20 c. ethical standards of practice,
 - 21 d. standards for Qigong schools operating in Oklahoma;
- 22 3. Approve or disapprove applications for licensure and issue
23 licenses or certificates, renewals and reinstatements;

1 4. Establish a tiered licensing or certification system as
2 necessary for the purpose of recognizing various levels of
3 education, training and certification;

4 5. Censure, suspend or revoke licenses as provided in this act
5 or deemed appropriate for the health or safety of customers and
6 citizens of this state;

7 6. Follow the Administrative Procedures Act;

8 7. Initiate and conduct investigations, hearings and
9 proceedings concerning alleged violations of this act or rules
10 promulgated by the board;

11 8. Impose administrative fines established by rule for
12 disciplinary sanctions for violations of this act or rules
13 promulgated thereto;

14 9. Keep records of all licenses and disciplinary proceedings
15 and provide an annual report of official board action;

16 10. Establish application and licensure fee requirements for
17 licensees by rule not to exceed Three Hundred Dollars (\$300.00); and

18 11. Promulgate rules necessary to implement, administer and
19 enforce the provisions of this act.

20 B. The board may employ or contract with individuals to
21 administer its affairs and provide support services.

22 C. All fees collected by the board shall be deposited to the
23 credit of the Oklahoma Qigong Revolving Fund created in Section 7 of
24 this act.

1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4350.6 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

4 There is hereby created in the State Treasury a revolving fund
5 for the Oklahoma Board of Qigong to be designated the Oklahoma
6 Qigong Revolving Fund. The fund shall be a continuing fund, not
7 subject to fiscal year limitations, and shall consist of all monies
8 received by the board from qigong license and certificate fees,
9 administrative fines imposed and collected for license or rule
10 violations, and any other source of funds received in relation to
11 this act. All monies accruing to the credit of the fund are hereby
12 appropriated and may be budgeted and expended by the board for the
13 purpose of implementing, administering and enforcing this act.
14 Expenditures from the fund shall be made upon warrants issued by the
15 State Treasurer against claims filed as prescribed by law with the
16 Director of the Office of Management and Enterprise Services for
17 approval and payment.

18 SECTION 8. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 4350.7 of Title 59, unless there
20 is created a duplication in numbering, reads as follows:

21 A. Beginning July 1, 2020, unless a person is licensed by the
22 Oklahoma Board of Qigong, no person shall engage in clinical qigong
23 therapy, or advertise or teach qigong in this state for purposes of
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1 clinical qigong therapy, except as may otherwise be provided in this
2 act. No unlicensed person shall:

3 1. Hold himself or herself out as a qigong teacher, clinical
4 qigong practitioner, associate clinical qigong practitioner, or as
5 being able to practice or teach qigong for clinical qigong therapy
6 in this state;

7 2. Use the title of clinical or medical qigong practitioner or
8 clinical qigong teacher or any variant thereof; or

9 3. Use any configuration of letters, including but not limited
10 to QT, AQT, ACQP, CQP or MQP after his or her name indicating a
11 degree or credentials in qigong.

12 B. Any license or certificate issued pursuant to this act
13 shall:

14 1. Be issued in the individual name of the licensed
15 practitioner or teacher;

16 2. State the nature of the license or certificate;

17 3. State the license expiration date; and

18 4. Be displayed at all times in a conspicuous manner in the
19 place of business or employment of the licensee; provided, however,
20 the license shall not display the residential address of the
21 licensee, and such information may be obliterated if printed on the
22 face of such license.

23 C. The following persons are exempt from the licensure or
24 certification requirements of this act:

1 1. A medical or clinical qigong practitioner or qigong teacher
2 licensed to practice and teach in another jurisdiction while such
3 person is teaching, demonstrating or providing qigong treatments in
4 connection with a certified qigong school in this state. Any
5 exemption authorized from licensure in this state under this
6 paragraph shall not exceed sixty (60) days cumulatively in a
7 calendar year;

8 2. A qigong practitioner or teacher licensed in another
9 jurisdiction who enters this state to provide qigong treatments
10 during a natural disaster or a public health emergency, as declared
11 by the governor;

12 3. With board approval, a person in training may practice or
13 teach qigong provided all services are performed under the direct
14 supervision of a licensed clinical qigong practitioner or qigong
15 teacher in this state; and

16 4. Persons who participate in general recreational qigong
17 exercises for self-health and non-specific medical purposes and do
18 not instruct others for profit or receive compensation through
19 donations or by any other means.

20 D. Nothing in this act shall be construed to prohibit or
21 restrict any other licensed health care provider in this state from
22 practicing qigong-related specialties within regular scope of
23 practice or training. However, no person may represent themselves
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1 as a qigong medical or clinical qigong practitioner or qigong
2 teacher in any manner, unless licensed in accordance with this act.

3 SECTION 9. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 4300.8 of Title 59, unless there
5 is created a duplication in numbering, reads as follows:

6 A. An applicant for licensure to practice qigong under this act
7 shall:

8 1. Apply for licensure or certification with the Oklahoma Board
9 of Qigong by providing an application in the form and manner
10 prescribed by the board;

11 2. Pay the required fees established by the board; and

12 3. Furnish to the board evidence that the applicant has:

13 a. graduated from a recognized qigong program that
14 conforms to the requirements in this act,

15 b. graduated from an accredited qigong program and
16 continuously practiced qigong in this state for at
17 least five (5) years prior to July 1, 2020, or

18 c. completed other verifiable examination, education or
19 apprenticeship processes the board considers
20 substantively qualifying.

21 B. Licenses or certificates shall be renewed or reinstated
22 according to a schedule established by the board pursuant to this
23 act. If a licensee fails to renew a license or certificate pursuant
24 to the schedule established by the board, the license or certificate

1 shall expire and the licensee shall not practice or teach qigong
2 after expiration of such license or certificate.

3 C. An applicant for licensure or certification and a licensee
4 seeking renewal of a license or certification shall report any
5 pending or final administrative or disciplinary actions in other
6 judgments, as well as the terms of any settlement or other
7 disposition of an action or judgment against the applicant or
8 licensee involving malpractice or improper practice of qigong,
9 whether occurring in Oklahoma or in any other jurisdiction not later
10 than thirty (30) days after the licensee becomes aware of such
11 actions or judgments.

12 SECTION 10. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 4350.9 of Title 59, unless there
14 is created a duplication in numbering, reads as follows:

15 The Oklahoma Board of Qigong may issue by endorsement a license
16 or certificate to practice qigong in Oklahoma to an applicant who is
17 currently licensed to practice qigong in another state subject to
18 the following:

- 19 1. The other state shall have substantially equivalent qigong
20 licensure or certification requirements as Oklahoma, including
21 similar endorsement provisions for licensees of this state;
- 22 2. The applicant shall not have any disciplinary actions
23 pending at the time of application; and

1 3. The applicant shall not have had a license to clinically
2 practice or teach qigong suspended or revoked.

3 SECTION 11. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 4350.10 of Title 59, unless
5 there is created a duplication in numbering, reads as follows:

6 A. Upon receiving a complaint alleging a licensee or applicant
7 with any act prohibited by this act or any rule promulgated pursuant
8 thereto, the Oklahoma Board of Qigong may conduct an investigation.
9 If the board finds reasonable grounds to substantiate the
10 allegations of the complaint, a time and place for a hearing shall
11 be set and a notice shall be served on the licensee or applicant at
12 least fifteen (15) calendar days prior to the hearing. The notice
13 shall be by personal service or by certified or registered mail sent
14 to the last known address of the licensee or applicant.

15 B. The Oklahoma Board of Qigong may issue subpoenas for the
16 attendance of witnesses and the production of necessary evidence in
17 any hearing before it. Upon request of the respondent or his or her
18 counsel, the board shall issue subpoenas on behalf of the
19 respondent.

20 C. Hearings held pursuant to this act shall be held in
21 accordance with, and a person aggrieved by a decision of the board
22 may take an appeal pursuant to, the Administrative Procedures Act.
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1 SECTION 12. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 4350.11 of Title 59, unless
3 there is created a duplication in numbering, reads as follows:

4 A. After any hearing conducted pursuant to the Oklahoma Qigong
5 Practice Act according to the Administrative Procedures Act, the
6 Oklahoma Board of Qigong may approve, deny, suspend, revoke or
7 refuse to renew a license or certificate or may impose probationary
8 conditions on the person if the licensee or applicant has engaged in
9 unprofessional conduct, criminal conduct or violation of this act or
10 rules promulgated thereto. For purposes of this section,

11 "unprofessional conduct" means and includes any of the following:

12 1. Obtaining a license or certificate by means of fraud,
13 misrepresentation or concealment of material facts;

14 2. Violating the ethical standards of practice or rules of
15 professional conduct adopted by the board;

16 3. Being convicted of a felony offense where the health and
17 safety of the public is implicated by the nature of the offense
18 committed; provided, however the provisions of Section 4000 of Title
19 59 of the Oklahoma Statutes may be considered for reinstatement;

20 4. Being convicted of an offense involving a controlled
21 substance; provided the provisions of Section 4000 of Title 59 of
22 the Oklahoma Statutes may be considered for reinstatement;

23 5. Being negligent in the practice or teaching of qigong;
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1 6. Violating any lawful order, rule or regulation rendered or
2 adopted by the board; and

3 7. Violating any provision of this act.

4 B. An application for reinstatement may be made to the board
5 not earlier than one year after the date of the revocation of the
6 license. The board may accept or reject an application for
7 reinstatement and may hold a hearing to consider reinstatement. An
8 applicant for reinstatement aggrieved by any final action of the
9 board may appeal to the district court pursuant to the
10 Administrative Procedures Act.

11 C. Upon receipt from the Oklahoma Department of Human Services,
12 or another state's health and family services division or agency, of
13 a certified copy of an order from a court of competent jurisdiction
14 to withhold, suspend or otherwise restrict a license issued by the
15 board, the board shall notify the party named in the court order of
16 the withholding, suspension or restriction of the license in
17 accordance with the terms of such order. No appeal under the
18 Administrative Procedures Act shall be allowed for a license
19 withheld, suspended or restricted under this provision.

20 SECTION 13 NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 4350.12 of Title 59, unless
22 there is created a duplication in numbering, reads as follows:

23 The Oklahoma Board of Qigong shall issue a license or
24 certificate to an individual applicant based on the following
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1 verified training and years of experience. The basic training must
2 consist of at least seventy percent (70%) hours from a single
3 teacher or training school or institution. Additional hours may be
4 from other teachers, schools or institutions.

5 The school or institution granting the certification or degree
6 must be an accredited school or institution recognized by the board
7 and any training received from an individual teacher through
8 mentorship training, shall require approval from the board.

9 Recognition of training by the board shall be a minimum of that
10 which is required by the National Qigong Association (NQA) within
11 their certification guidelines. Qigong licensure or certification
12 shall be granted separately to qigong teachers, clinical qigong
13 practitioners and associate clinical practitioners; however, a
14 clinical qigong practitioner who meets the requirements set forth by
15 the board or provided in this act for a qigong teacher may be dual
16 licensed to both teach qigong exercises and practice qigong for
17 clinical qigong therapy. The following are the requirements for:

18 A. Qigong Teacher:

19 1. Entry: Two hundred (200) hours documented formal qigong
20 training;

21 2. Intermediate: Three hundred fifty (350) hours documented
22 formal qigong training and two (2) years qigong teaching experience.

23 3. Advanced: Five hundred (500) hours documented formal qigong
24 training and a minimum of five (5) years qigong teaching experience.

1 B. Clinical Practitioners:

2 1. Clinical qigong practitioner: Five hundred (500) hours
3 documented formal clinical qigong training. One hundred of such
4 hours to include contact and non-contact qi emission, adjunct
5 massage manipulation and teaching medical qigong exercises; and

6 2. Two (2) years clinical qigong experience.

7 C. 1. Advanced qigong clinical practitioner: One thousand five
8 hundred (1,500) hours documented formal clinical qigong training
9 with a thousand of such hours to include contact and non-contact qi
10 emission, adjunct massage manipulation and teaching medical qigong
11 exercises.

12 2. Ten (10) years or more clinical qigong experience.

13 D. 1. Associate clinical practitioner: Two hundred fifty (250)
14 hours documented formal medical qigong training with one hundred of
15 such hours to include contact and non-contact qi emission, adjunct
16 massage manipulation and teaching medical qigong exercises.

17 2. Five (5) years clinical experience in their health-related
18 field of expertise.

19 3. Currently licensed to practice in their health-related field
20 of expertise, not including qigong.

21 E. 1. Associate Qigong Teacher: One hundred (100) hours
22 documented formal qigong training.

23 2. Three (3) years teaching experience in their health-related
24 field of expertise, not including qigong.

1 SECTION 13. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 4350.13 of Title 59, unless
3 there is created a duplication in numbering, reads as follows:

4 A. Any person who violates any provision of this act or any
5 rule promulgated by the Oklahoma Board of Qigong shall be guilty of
6 a misdemeanor, upon conviction, and shall be subject to a fine in an
7 amount not exceeding Five Thousand Dollars (\$5,000.00). If the
8 board has reason to believe that any individual is liable under this
9 section, it may certify the facts to the prosecuting attorney of the
10 jurisdiction in which the offense was committed.

11 B. The attorney general, the board, any district attorney or
12 any citizen may obtain an injunction upon the relation of a
13 complainant enjoining any person from engaging in the practice of
14 qigong without a license or in violation of the provisions or rules
15 of this act. Either the district court of the county in which an
16 offending person resides, or the district court of Oklahoma County,
17 has original jurisdiction of any such injunction proceedings
18 depending where such injunction has been originally filed. An
19 injunction may be issued without proof of actual damage sustained
20 and upon proof of one or more acts constituting the practice of
21 qigong without a license or in violation of the provisions of this
22 act or its rules. The standard of proof of any violation of this
23 act shall be by a preponderance of the evidence.

1 C. Nothing in this act shall limit any additional civil or
2 criminal liability under the laws of this state.

3 SECTION 14. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 4350.14 of Title 59, unless
5 there is created a duplication in numbering, reads as follows:

6 The Oklahoma Board of Qigong may establish by rule a schedule of
7 administrative fines to be imposed as disciplinary sanctions for
8 violations of this act or the rules promulgated by the board. An
9 administrative fine may be imposed in lieu of requesting criminal
10 prosecution. Such administrative fines imposed by the board shall
11 not exceed Five Hundred Dollars (\$500.00) for any single violation
12 and not more than Five Thousand Dollars (\$5,000.00) for all combined
13 violations occurring in relation to a complaint.

14 SECTION 15. This act shall become effective November 1, 2019.

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