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THE OKLAHOMA BAR
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Volume 97 — No. 3 — March 2026

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THE OKLAHOMA BAR Journal

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Bearing the Standard: Why the OBA Standards of Professionalism Matter to Lawyers

By Amber Peckio

HAVE YOU EVER FOUND YOURSELF UNSURE how to proceed when a possible conflict arises or some other potentially thorny situation presents itself? The OBA Standards of Professionalism[1] are a resource all Oklahoma lawyers should know about. Twenty years ago, the Board of Governors adopted the standards to set expectations for attorney behavior that go far beyond the minimum legal requirements, emphasizing honesty, civility and service as central pillars of legal practice. The standards outline how lawyers should conduct themselves with the public, clients, courts and other lawyers. They offer a framework for elevating professionalism in a system that relies on trust, respect and ethical conduct, representing the level of behavior we expect from each other and the public expects from us.

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The Standards of Professionalism were intended to fill the gap between rules and real-world practice, recognizing that minimum conduct, dictated by disciplinary rules, is not always sufficient to sustain the dignity and effectiveness of the legal profession. They remind us that the practice of law is a learned profession grounded in public service, integrity and civility. For practicing attorneys, this matters in everyday interactions. The standards call for prompt communication with clients and opposing counsel, truthful representations to courts and parties and proactive efforts to avoid needless costs, delays and conflict. Lawyers are encouraged to participate in pro bono work and organized activities that improve the administration of justice. They also emphasize cultural sensitivity and unbiased conduct, calling on lawyers to refrain from behavior that "exhibits or is intended to appeal to or engender bias" based on characteristics such as race, gender or disability.

The standards also make clear that zealous representation does not require incivility or abrasive conduct. Lawyers are reminded that reasonable people can disagree without being disagreeable and that effective representation often is enhanced rather than hindered by courtesy and restraint.

These expectations should not be merely aspirational. By guiding behavior that fosters respect and trust, the standards help maintain public confidence in the legal system. They also support lawyers in delivering competent and ethical service and reinforcing professional identity and public accountability. As OBA president, I am always excited to share the many ways the OBA supports its members in achieving these guiding principles.

The Office of the Ethics Counsel is one example of the assistance the association provides. OBA members can call or email to obtain informal advice and interpretations of the rules of attorney conduct. The service is confidential and free for OBA members! The Office of the Ethics Counsel may be reached at 405-416-7055 or ethicscounsel@okbar.org. I encourage all Oklahoma lawyers to take advantage of this member benefit to ensure they adhere to the highest ethics standards of our profession.

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THE OKLAHOMA BAR
Journal
Volume 97 — No. 3 — March 2026

The Oklahoma Bar Journal (ISSN 0030-1655) is published monthly, except June and July, by the Oklahoma Bar Association, 1901 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105. Periodicals postage paid at Oklahoma City, Okla. and at additional mailing offices.

Subscriptions $85 per year. Law students registered with the OBA and senior members may subscribe for $45; all active members included in dues. Single copies: $8.50

Postmaster Send address changes to the Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, OK 73152-3036.

Bar News in a Minute

VOLUNTEER FOR LAW DAY ON MAY 1

Law Day will be celebrated statewide on Friday, May 1. Ask A Lawyer, as well as other Law Day-related events, will be held across Oklahoma, and volunteers are needed to make the day a success! There is an additional need for Spanish-speaking volunteers in Tulsa and Oklahoma counties for Ask A Lawyer throughout the day. To volunteer in Tulsa County, contact Mary Clement at mary@clementlegalok.com. To volunteer in Oklahoma County, contact Christi Chandler at office@okcbar.org. For other counties, visit www.okbar.org/cobar to contact your county bar president for Law Day chair information.

County Law Day chairs, email communications@okbar.org with your contact information and details about your Law Day events. Visit www.okbar.org/lawday for more information.

A NEW WAY TO EARN MCLE CREDIT

Recently, the Oklahoma Supreme Court amended the rules for mandatory continuing legal education to include writing scholarly articles that are published in the *Oklahoma Bar Journal*. The MCLE Commission will award 6 credits per published article for each contributing author. Contact OBA Communications Director and *Oklahoma Bar Journal* Managing Editor Lori Rasmussen at lorir@okbar.org to learn more about this opportunity. Visit https://bit.ly/3ZepRZ3 to read the Supreme Court order.

LHL DISCUSSION GROUPS TO HOST APRIL MEETINGS

Monthly Discussion Groups: The Lawyers Helping Lawyers monthly discussion group will meet Thursday, April 2, in Oklahoma City at the office of Tom Cummings, 701 NW 13th St. The group will also meet Thursday, April 9, in Tulsa at the office of Scott Goode, 1437 S. Boulder Ave., Ste. 1200.

Women's Discussion Groups: The Tulsa women's discussion group will meet Tuesday, April 21, at the office of Scott Goode, 1437 S. Boulder Ave., Ste. 1200; the Oklahoma City women's discussion group will also meet Thursday, April 23, at the first-floor conference room of the Oil Center, 2601 NW Expressway.

Each meeting is facilitated by committee members and a licensed mental health professional. The small group discussions are intended to give group leaders and participants the opportunity to ask questions, provide support and share information with fellow bar members to improve their lives – professionally and personally. Visit www.okbar.org/lhl for more information, and keep an eye on the OBA events calendar at www.okbar.org/events for upcoming discussion group meeting dates.

IMPORTANT UPCOMING DATES

OBA Day at the Capitol will be held Tuesday, March 10, from 9 a.m. to 3 p.m. at the Oklahoma Bar Center in Oklahoma City.

Law Day will be celebrated statewide on Friday, May 1. Visit www.okbar.org/lawday for more information.

Be sure to docket the OBA Midyear Conference, to be held June 17-19 at the OKANA Resort in Oklahoma City.

SAVE THE DATE FOR THE OBA MIDYEAR CONFERENCE

Save the date for the 2026 OBA Midyear Conference! This year's event, which will be held June 17-19 at the OKANA Resort in Oklahoma City, will focus on CLE opportunities for all practitioners as well as programming for solo and small-firm practitioners. Just like the previous Solo & Small Firm Conference, the Midyear Conference will take place in a casual, family-friendly resort setting. We can't wait to see you there!

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2026 CHIEF JUSTICE COLLOQUIUM ON CIVILITY AND ETHICS

The Oklahoma Supreme Court invites you to attend the third annual Oklahoma Chief Justice Colloquium on Civility and Ethics. This year's event, to be held April 1, will feature guest speakers U.S. Sen. James Lankford and former Oklahoma Attorney General Michael C. Turpen. Register at ok.webcredenza.com.

REGISTER NOW FOR THE 2026 SOVEREIGNTY SYMPOSIUM

Registration is open for the 38th annual Sovereignty Symposium. This event, presented by the OCU School of Law, will be held June 15-16 at the OKANA Resort in Oklahoma City. The symposium is currently inviting proposals for panel presentations and writing and poster competitions. The deadline for submissions is March 27. Visit www.sovereigntysymposium.com to learn more about the event.

OBA DAY AT THE CAPITOL IS MARCH 10

On Tuesday, March 10, join us for this year's OBA Day at the Capitol. The morning will kick off with speakers covering bills of interest, how to talk to legislators, legislative updates and more. Attendees will then have the opportunity to visit with legislators. Visit www.okbar.org/dayatthecapitol for more information and to register.

LET US FEATURE YOUR WORK

We want to feature your work on "The Back Page" and the *Oklahoma Bar Journal* cover! All entries must relate to the practice of law and may include articles, reflections or other insights. Poetry, photography and artwork connected to the legal profession are also welcome. Photographs and artwork relating to featured topics may also be published on the cover of the journal. Email submissions of about 500 words or high-resolution images to OBA Communications Director Lori Rasmussen at lorir@okbar.org.

CONNECT WITH THE OBA THROUGH SOCIAL MEDIA

Are you following the OBA on social media? Keep up to date on future CLE, upcoming events and the latest information about the Oklahoma legal community. Connect with us on LinkedIn, Facebook and Instagram.

In Health Care, What You Don't Know *May* Hurt You

By Cori Loomis and Luke Moyer

THE HEALTH CARE INDUSTRY IS, PERHAPS, THE MOST REGULATED INDUSTRY in the United States. Business practices that are common and acceptable in other industries may be illegal in the health care industry. Lawyers who do not routinely practice health care law and do not stay up to date on the complex web of laws and regulations applicable to health care providers need to be careful not to inadvertently provide incorrect advice in reliance on legal principles of another industry that do not translate to the health care industry. The purpose of this article is to outline examples of situations in which business practices commonly used in other industries may cause real legal issues in the health care industry. Some key health care laws are counterintuitive and esoteric, and what you don't know may hurt you.

HEALTH CARE PROVIDERS CANNOT PAY FOR BUSINESS GENERATION

Paying for business generation is so commonplace that there are countless terms used to describe the practice: finder's fees, referral fees, origination fees, sourcing fees, placement costs, etc. The list goes on. Some professions are sustained almost entirely on these types of fees.

But in the context of federal health care programs, the U.S. Department of Justice (DOJ) and the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), use a markedly different word to describe those arrangements: fraud.

The same types of arrangements that are ubiquitous in other sectors are prohibited by a federal criminal statute called the Anti-Kickback Statute (AKS),[1] which makes it a felony offense for anyone to knowingly and willfully solicit or receive any remuneration for referring an individual to a health care provider for the furnishing of a service payable under a federal health care program. The statute covers the other side of the transaction as well – anyone who knowingly and willfully offers or pays remuneration to induce a person to refer an individual to a health care provider for the furnishing of a service payable under a federal health care program is also guilty of a felony.

In plain terms, paying to receive health care referrals or being paid to make health care referrals may result in a wardrobe that is less business casual and more jail-appropriate.

Just ask Mary Smettler-Bolton, age 71, of Oakland County, Michigan. Her role in what appears to be a run-of-the-mill kickback scheme, under which the owners and operators of home health companies paid Ms. Smettler-Bolton for referrals, resulted in a federal conviction and a maximum potential penalty of 10 years in prison, according to a DOJ press release.[2]

Federal regulators take AKS violations seriously, citing the increased cost to federal health care programs caused by kickback

schemes. In fact, the DOJ has an entire unit, staffed with 80 experienced white-collar prosecutors, focused exclusively on prosecuting health care fraud, including AKS violations.[3] And if the regulators don't detect the conduct, you can bet the False Claims Act bar will; Congress explicitly provided that AKS violations may form the basis of a False Claims Act lawsuit,[4] including *qui tam* lawsuits brought by private plaintiffs.

HEALTH CARE PROVIDERS CANNOT POST PICTURES FROM WORK OR RESPOND TO NEGATIVE ONLINE POSTS ABOUT THEM

No one hates social media more than a hospital's privacy officer.

Why, you ask? Consider a few common scenarios: A group of new lab techs gathers around a table for a group photo, not noticing the lab order that is plainly visible in the resulting social media post, "First Day!" A labor and delivery nurse posts a picture of a brand-new family, "Look at Mom and Dad, so proud!" A physical therapist posts a photo of a happy but exhausted patient after a successful session, "Progress!" In each of the situations, the people posting the photos are happy and clearly proud of the work they are doing. Many employers would literally pay to get that type of positive, organic social media interaction.

Enter the privacy officer, whose job it is to ruin the fun. What the privacy officer knows (and what our well-intentioned, if misguided, influencers will soon find out) is that disclosing "protected health information" (PHI) may violate the privacy rule[5] that HHS implemented in connection with the Health Insurance Portability and Accountability Act (HIPAA), as amended. PHI is defined broadly to include most types of "individually identifiable health information,"[6] almost certainly including the lab order and patients posted on social media.

The privacy rule generally requires health care providers to obtain a written "authorization" prior to disclosing PHI.[7] Verbal consent, especially in the context of social media posts, is typically not enough.[8] The privacy officer knows, from much experience, that written authorizations are usually not obtained prior to making a spontaneous social media post. So the privacy officer will likely be forced to analyze the situation as a potential PHI breach, a laborious analysis dictated by HHS regulations,[9] with the threat of HHS taking enforcement action lurking in the background. The privacy officer wonders, for perhaps the thousandth time, why they invented social media. It's going to be a long day.

The hospital's chief marketing officer is also having a long day. One of the system's employed physicians emailed this morning, demanding "DECISIVE ACTION" to address "THE INSIDIOUS MISINFORMATION ONE OF OUR PATIENTS POSTED ONLINE" (emphasis in original). The misinformation the physician is referencing is a Google review that accuses the physician of "malpractice that gave me a heart attack" (1 star). But, the physician points out, the patient's heart attack "HAD ABSOLUTELY NOTHING TO DO WITH [the physician's] QUALITY OF CARE AND EVERYTHING TO DO WITH THE PATIENT'S LOVE FOR FAST FOOD AND CHEESE CURDS" (emphasis in original).

The physician would like the chief marketing officer to "GO ON THE OFFENSIVE" and post a detailed rebuttal explaining how the patient's choices, and not the clinical decision-making of the physician, are to blame for the patient's ailments. While marketing officers in other industries can and do rebut false reviews, our chief marketing officer is constrained by the same privacy rules that apply to the above social media posts. Disclosing the patient's dietary choices and lifestyle, even to rebut a misleading public review, would likely involve a disclosure of PHI in violation of the privacy rule.

HEALTH CARE PROVIDERS CANNOT PROVIDE SERVICES AT A DISCOUNT OR FOR FREE

Helping people in need by either providing services, supplies or medications for free or at a discount sounds like a good thing, right? If a patient is having problems paying the full cost of a service or medication, providers often want to help by agreeing to waive their cost-sharing amounts under their health coverage as an accommodation to the patient. However, doing so can raise legal issues. From the payor's perspective, there are two potential issues. First, payors typically contract with providers to pay, in part, based on the provider's usual charges. The OIG has taken the position that routinely waiving copayments misrepresents the provider's actual charges. Second, payors require copays and deductibles as a mechanism to curtail overutilization of services and reduce costs. Waiving cost-sharing is counterproductive to these goals.[10]

In the 1994 *Special Fraud Alert: Routine Waivers of Copayments or Deductibles Under Medicare Part B*,[11] the OIG warned against the

following practices: 1) advertisements that state, "Medicare Accepted as Payment in Full," "Insurance Accepted as Payment in Full" or "No Out-of-Pocket Expenses"; 2) advertisements that promise that "discounts" will be given to Medicare beneficiaries; 3) the routine use of "financial hardship" forms, which state that the beneficiary is unable to pay the coinsurance/deductible (*i.e.*, there is no good faith attempt to determine the beneficiary's actual financial condition); 4) the collection of copayments and deductibles only when the beneficiary has Medicare supplemental insurance (Medigap) coverage (*i.e.*, the items or services are "free" to the beneficiary); 5) charges to Medicare beneficiaries that are higher than those made to other persons for similar services and items (the higher charges offset the waiver of coinsurance); and 6) the failure to collect copayments or deductibles for a specific group of Medicare patients for reasons unrelated to indigency (*e.g.*, a supplier waives coinsurance or deductible for all patients from a particular hospital in order to get referrals).

The OIG has indicated that it will not enforce the Civil Monetary Penalties Law (CMPL) and the AKS against providers who waive copays and deductibles based on the legitimate and documented financial hardship of the patient. The CMPL specifically excludes from the definition of "remuneration" the waiver of copays and deductibles if all of the following conditions are satisfied: 1) The waiver is not offered as part of any advertisement or solicitation, 2) the person does not routinely waive coinsurance or deductible amounts and 3) the person a) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need or b) fails to collect coinsurance or deductible amounts after making reasonable collection efforts.[12]

On July 8, 2024, the OIG updated its "General Questions on Fraud and Abuse Authorities" (FAQs)[13] related to the AKS and the CMPL with clarifications regarding waiving patients' cost-sharing amounts pursuant to health care providers' financial assistance policies. In the new FAQs (specifically Nos. 13-16), the OIG cites the AKS safe harbor and CMPL exception for waivers of cost-sharing amounts, which permits providers to waive patients' cost-sharing amounts, provided that the waivers are not routine, not advertised, and made based on a good-faith, individualized assessment of financial need.

Generally, it's recommended that providers draft and implement a financial assistance policy that is consistently followed to make sure all patients in similar situations are addressed in the same manner and that proper documentation of a patient's need is obtained. Using the federal poverty level is a good benchmark, but providers can incorporate "presumptive" categories of people entitled to financial assistance in their financial assistance policies, such as those on Medicaid. Providers can and often do add or permit other categories, such as the high cost of care and other special circumstances.

CONCLUSION

Health care law is not for the uninitiated. Its idiosyncrasies can turn otherwise routine legal work into a minefield for the unsuspecting practitioner, and the above examples are just the tip of the iceberg. Health care providers can also face steep fines or other consequences for seemingly innocuous oversights, like:

- Forgetting to sign a contract[14]
- Forgetting to check this database,[15] or this one,[16] and (just to be safe) this one,[17] this one,[18] and this one too,[19] prior to hiring or contracting with certain individuals

No one hates social media more than a hospital's privacy officer.

- Forgetting to include the correct esoteric contract clause in the correct esoteric contract[20]
- And so many others

When dealing with any issue that might have regulatory health care implications, sometimes it's best to phone an expert to seek guidance – because what you don't know may hurt you.

ABOUT THE AUTHORS

Cori Loomis is a health care attorney with McAfee & Taft who draws upon her extensive experience working in both private practice and public service to represent and counsel providers on a broad range of transactional, operational, legislative, administrative and regulatory compliance matters. In addition to working in private practice for more than 20 years, she previously served as the compliance officer and HIPAA privacy official for OU and as general counsel for the Oklahoma State Medical Association.

Luke Moyer is a health care lawyer with McAfee & Taft whose practice encompasses the areas of health care transactions, day-to-day business consulting, federal and state administrative and regulatory compliance and HIPAA and health privacy matters. He is a certified information privacy professional/United States (CIPP/US), with extensive experience advising health care providers on emerging areas of privacy and security risk. He received his undergraduate degree from OSU and his J.D. from the TU College of Law.

ENDNOTES

1. 42 U.S.C. §1320a-7b(b).
2. Press Release, U.S. Dept. of Justice, "Michigan Woman Convicted of $1.4M Health Care Kickback Scheme," (Nov. 22, 2024), https://bit.ly/4t5HxDN.
3. U.S. Dep't of Just., Criminal Div., Health Care Fraud Unit, https://bit.ly/4rfVbCI (last visited Oct. 7, 2025).
4. 42 U.S.C. §1320a-7b(g).
5. 45 C.F.R. Part 164, Subpart E.
6. 45 C.F.R. §160.103.
7. 45 C.F.R. §164.508.
8. 45 C.F.R. §164.506(b)(2).
9. 45 C.F.R. Part 164, Subpart D.
10. (42 USC 1390a-7b(b)). Violations may result in a five-year prison term, $25,000 criminal penalty, $50,000 administrative penalty, treble damages and exclusion from Medicare and Medicaid (*Id.*; 42 CFR 1003.102). The Affordable Care Act also made an AKS violation an automatic violation of the False Claims Act, which may result in additional penalties of $5,500 to $11,000 per claim submitted and repayment of amounts improperly received (42 USC 1320a-7a(a)(7); 42 CFR 1003.102).
11. https://bit.ly/4t70PbX.
12. (42 USC 1320a-7a(i)). The AKS also contains an exception for cost-sharing waivers for inpatient hospital services if certain conditions are satisfied (*see* 42 USC 1001.925(k)).
13. https://bit.ly/4rfVtJO.
14. *See, e.g.,* 42 C.F.R. §411.357 (listing exceptions to the so-called Stark Law, many of which require contracts to be "signed by the parties").
15. U.S. Dep't of Health & Human Servs., Office of Inspector Gen., Exclusions Database, https://exclusions.oig.hhs.gov (last visited Oct. 10, 2025).
16. U.S. Gen. Servs. Admin., System for Award Management (SAM), Exclusions Search, https://sam.gov/search/?index=ex (last visited Oct. 10, 2025).
17. U.S. Dep't of Health & Human Servs., Health Res. & Servs. Admin., Nat'l Practitioner Data Bank, Continuous Query, www.npdb.hrsa.gov/hcorg/pds.jsp (last visited Oct. 10, 2025).
18. Okla. State Bd. of Med. Licensure & Supervision, Licensee Search, www.okmedicalboard.org/search (last visited Oct. 10, 2025).
19. Ctrs. for Medicare & Medicaid Servs., Open Payments, https://openpaymentsdata.cms.gov (last visited Oct. 10, 2025).
20. *See, e.g.,* 42 C.F.R. 420.302 (establishing a "[r]equirement for access clause in [certain health care] contracts"); 45 C.F.R. §164.504(e) (establishing requirements for "[b]usiness associate contracts").

Statements or opinions expressed in the Oklahoma Bar Journal *are those of the authors and do not necessarily reflect those of the Oklahoma Bar Association, its officers, Board of Governors, Board of Editors or staff.*

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Modern Legal Considerations for Medical and End-of-Life Care in Oklahoma

By Corinne Taylor-Davis

ATTORNEYS DRAFTING ESTATE PLANS AND PRE-SURGERY DOCUMENTS have multiple options for ensuring a client's wishes are followed in the case of incapacitation. Understanding the key differences between these options is necessary when helping our clients access the future health care they desire. Notably, Oklahoma's statutory health care power of attorney form does not provide for critical end-of-life decision-making without a separate advance directive. Additional provisions may also need to be included to counteract or enforce other important choices. Further, as medical care becomes progressively complex as our clients age and experience dementia, mental illness and/or access issues, it is becoming increasingly necessary that attorneys customize bare-bones statutory documents. This article explains Oklahoma-specific issues related to common legal health care documents and how attorneys can use advanced provisions to fully address the concerns of each unique client.

COMMON HEALTH CARE PLANNING DOCUMENTS

Health Care Powers of Attorney (HPOAs)

Health care powers of attorney (aka medical powers of attorney, medical proxies or HPOAs) are legal documents in which a person (known as the "principal") names a trusted third party as a medical decision-maker on their behalf (their "health care agent" or "medical proxy").[1] HPOAs can be as simple as just naming a health care agent, or they can be multiple pages long with specific directions and limitations about the type of medical care a principal would and would not wish to receive. Often written as part of a broad estate plan, HPOAs may also be individually drafted in preparation for surgery requiring anesthesia, when declining health makes planning future medical care a priority or when a person with fluctuating physical or mental health desires a third party to step in immediately during future times of instability.

Importantly, an HPOA lacks the authority to enforce end-of-life decision-making[2] – this can only be addressed by an advance directive.[3] It should also be noted that while an HPOA may request that any DNR (do-not-resuscitate) issued be respected, an HPOA itself cannot stop emergency medical professionals from resuscitation efforts – only medical orders, such as DNRs and physician orders for life-sustaining treatments (POLST), can be used for this purpose.[4] Consequently, it's very important for practitioners to ensure we fully understand the exact needs our clients have in order to draft and advise upon the documents necessary to affect their wishes.

Advance Directives

Advance directives are legal documents that not only name a trusted medical decision-maker but also allow the principal to make legally enforceable end-of-life decisions in advance of a medical crisis.[5] Specifically, an advance directive allows a principal to choose when lifesaving measures should be stopped if they are medically incapable of making their own decision while in one of the following states: 1) a terminal illness with no reasonable expectation of recovery, 2) a persistent vegetative state or 3) an end-stage condition that results in incompetency and complete physical dependency.

In some jurisdictions, HPOAs and advance directives are included in the same statutory form, which leads to the powers being discussed interchangeably. In Oklahoma, however, the powers are controlled by two separate statutes and statutory forms,[6] which can lead to the accidental exclusion of end-of-life decision-making if only an HPOA is written. Notably, the Oklahoma statutory HPOA form specifically advises that it cannot be used to make decisions regarding artificial nutrition and hydration (tube feeding and IV). Instead, these choices must be set forth and initialed separately, substantially following the statutory advance directive form.

The importance of this decision is magnified for principals who express fear of "being kept alive in a vegetative state," similar to the case of Terri Schiavo.[7] Oklahoma law prohibits the removal of artificial nutrition and hydration under such circumstances, unless an advance directive has been written.[8] As withholding artificial nutrition and hydration may be the only way to allow a principal in such a state to die naturally, choosing to draft an advance directive over (or in addition to) an HPOA is critical.

HPOA and Advance Directive Combination

While Oklahoma's statutory advance directive form must be

substantially followed to be effective, Oklahoma's statutory HPOA form rejects such formalities.[9] Consequently, they may be combined,[10] and end-of-life decision-making can be part of a standard estate planning practice, even for young families. As death and incompetence are often not foreseeable, creating documents that plan for the worst allows principals to protect their dignity, even when they are unable to speak for themselves.

CREATING EFFECTIVE HPOAS AND ADVANCE DIRECTIVES

An HPOA or advance directive may be created by any competent person over the age of 18.[11] The document(s) must be in writing, signed by the principal and witnessed by two adults who are not named as agents and who are not heirs of the principal.[12] An HPOA may be notarized instead of witnessed; an advance directive must be witnessed.[13] For ease of interstate portability, the author recommends both witnesses and a notary. The agent chosen by a principal may not be one of the principal's health care providers at a long-term health care facility, unless that person is related to the principal.[14]

When HPOAs are Effective

By default, HPOAs are written to only become effective when a physician determines a principal is no longer able to make their own medical decisions (incompetence).[15] This can mean physical inability, such as being in a coma or under anesthesia, or psychiatric inability, such as advanced dementia or unmedicated schizophrenia. Some HPOAs may be drafted to require both the attending physician and a second physician to determine incompetence before the agent may make decisions on the principal's behalf.

Less commonly, HPOAs may be written to become effective immediately upon signing. This type of immediate HPOA may be used for a person with fluctuating mental health, when there are language barriers between a principal and expected medical caregivers or when there are complex needs that may slow down care. It is important to note that immediately effective HPOAs cannot override the will of a mentally competent adult. Instead, immediately effective HPOAs work as a form of delegation, allowing the health care agent to seek medical care on behalf of the principal in a faster and easier manner without the need for a doctor to make an incompetency determination for every decision.

HPOAs are revocable by the principal at any time, in writing or by communicating the same to a health care provider.[16]

Sample forms for health care power of attorney, advance directive for health care and advance directive for mental health treatment can be found at https://bit.ly/4qcJLyy or by scanning the QR code.

When Advance Directives Are Effective

An advance directive is only effective when a principal can no longer make their own medical decisions, as determined by the principal's attending physician and another physician.[17] This can be as a result of permanent physical unconsciousness or psychological incapacity. An advance directive may be revoked by the principal at any time, in any manner, regardless of mental or physical state.[18]

When HPOAs Are Not *Effective*

Importantly, HPOAs signed by individuals who are already facing incompetency are not legally enforceable. Further, decisions made by a health care agent under an improper HPOA that are against a principal's wishes may be deemed a violation of the principal and the principal's constitutional rights.[19] This point should be particularly emphasized for principals with fluctuating mental illness, where forced medication, treatment and/or involuntary institutionalization may later become necessary, or for individuals experiencing advanced dementia, where combative behavior may increase in frequency. Attorneys can avoid an ethical grey area by properly screening their clients for incapacity and seeking consultation with a mental health provider when advisable.

When Advance Directives Are Not *Effective*

Like HPOAs, advance directives signed by individuals without capacity are not legally enforceable. Because of the permanent nature of advance directives, the consequences for their fraudulent creation are significantly greater than those of HPOAs. Agents who

falsely create or coerce a principal into creating an advance directive are guilty of a felony.[20] Practitioners who undertake proper undue influence screening can avoid these bad actors and help prevent elder abuse. Attorneys who feel an older client is being taken advantage of by their caregiver may report the abuse to Adult Protective Services.[21]

ASSESSING HPOA/ADVANCE DIRECTIVE PRINCIPALS

Accordingly, it is incredibly important for practitioners to ensure the competency of the person for whom they are drafting an HPOA or advance directive. The attorney assessment worksheet and the undue influence screening tool found in the *Assessment of Older Adults with Diminished Capacities: A Handbook for Lawyers*[22] (the handbook) are excellent resources for helping properly assess whether a principal is competent to sign an HPOA or advance directive or if, instead, a guardianship is necessary. After an initial interview, the handbook suggests the attorney use the following chart to consider how to proceed with possible representation of an individual with diminished capacity:

Client Capacity	Action Options
No or minimal evidence of diminished capacity.	Proceed with representation and transaction.
Mild concerns – Some evidence of diminished capacity, but less than substantial.	1) Proceed with representation/transaction. An associated note to the file may be helpful to document your conclusion. 2) Explore decision support strategies to reinforce capacity. 3) Consider medical referral if medical oversight lacking. 4) Consider consultation with mental health professional. 5) Consider referral for formal clinical assessment to substantiate conclusion, with client consent.
More than mild concerns about capacity even with decision supports, or decision-support is not available.	1) Explore decision support strategies further to reinforce capacity. Clear documentation of concerns and actions contemplated or taken will be important here. 2) Medical referral if medical oversight lacking. 3) Consultation with mental health professional. 4) Refer for formal clinical assessment, with client consent.
Severe concerns – Client clearly lacks capacity to proceed with representation and transaction.	1) The representation cannot proceed, and alternative legal approaches must be taken (for example, working with family members). 2) Referral to mental health professional to confirm conclusion. 3) Do not proceed with case; or withdraw, after careful consideration of how to protect client's interests. 4) If an existing client, consider protective action consistent with MRPC 1.14(b).

PERSONALIZED HPOA AND ADVANCE DIRECTIVE PROVISIONS

HPOAs and advance directives both include sections where a principal can provide additional limitations or directions to their agent. This often-ignored space is an important aspect of medical planning, not only legally speaking but also from an emotional standpoint. It is in this space where an attorney can help their client feel truly heard and in control of their future. The following are some advanced provisions to consider including.

Dementia Provisions

While the statutory advanced directive addresses ending life-saving measures if a principal is experiencing "an end-stage condition ... which results in severe and permanent ... incompetency" because dementia and Alzheimer's disease are fluctuating conditions, specific language can help ensure a principal's wishes are properly affected.

Dementia/Alzheimer's provisions can be simple, or they can be extremely detailed. A simple provision could look similar to the following:

> If I am in an advanced stage of dementia, and I do not have the quality of life that my agent believes I would want, I request that no lifesaving treatment be given. I wish to be given comfort care only (including but not limited to sedation when appropriate). My agent should be given all options available to aid in a peaceful death.

Compassion & Choices' dementia advance directive[23] (excerpt below) is a great resource for families seeking to dig in and make a specific plan for a wide range of dementia-related issues:

	Live as Long as Possible	Treat Me but Not Aggressively	Allow a Natural Death
If my physician or health care provider has determined my dementia has progressed to advanced or late stage, then I want			
If I require around-the-clock (24 hour) assistance and supervision, then I want			
If I no longer recognize my loved ones, then I want			
If I am unable to walk or move safely without assistance from a caregiver, then I want			
If I am unable to bathe and clean myself without assistance from a caregiver, then I want			
If I am unable to remain at home and have to live in a nursing facility, then I want			
If I no longer have control of my bladder (urinary incontinence) or bowels (bowel or fecal incontinence), then I want			
If I am no longer aware of my surroundings (where I am, the date/year, who is with me), then I want			
If I am unable to clearly communicate my thoughts or needs (words and phrases do not make sense), then I want			

Advance Directive for Mental Health Treatment

Principals who experience fluctuating mental illness and wish to be proactive instead of risking arrest and/or involuntary commitment should consider completing an advance directive for mental health treatment. Similar to a standard advance directive, the mental health advance directive allows for a principal to choose a trusted agent to assist them in seeking mental health care when in a state of diminished capacity and

to proactively consent or decline specific mental health treatment in advance of needing it. The directive becomes effective when a psychiatrist and another physician determine that the principal is unable to receive and/or evaluate and/or communicate to an extent that they lack capacity.

In Oklahoma, "mental health treatment" includes the following by default: convulsive treatment, treatment with psychoactive medication and admission to and retention in a health care facility for a period of up to 28 days.[24] A principal may modify this consent as well as outline their own unique needs, such as medication regimen, preferred hospital(s), trusted medical provider(s), successful conflict de-escalation techniques and/or other special instructions to their agent.

Hospice and Dying at Home

Hospice is a widely misunderstood and greatly underutilized end-of-life tool. Covered under Medicare, hospice provides free medical support to those at the end of life with a goal of easing suffering and making the last six months of a person's life as pleasant as possible. The majority of the author's clients express a sincere interest in dying at home and not in a hospital. However, the typical time spent on hospice is only around three weeks, and over 30% of Americans end up dying in the hospital.[25] Including a simple provision stating a principal's preference to die at home with the aid of hospice can make a significant difference in the quality of life and death of our clients.

Addressing Pregnancy

The recent Georgia case of Adriana Smith has sparked debate across the country with respect to whether a permanently unconscious woman should be forced to carry a pregnancy to term.[26] The Oklahoma advance directive form specifically states that a pregnant woman cannot be taken off life support unless she states so in her advance directive ahead of time. For female principals of childbearing age, consider including the following permissive (not obligatory) provision:

> I specifically authorize that during a course of pregnancy, if my health care proxy believes I would not wish to be kept alive, that they may opt to remove life-sustaining treatment and/or artificially administered hydration and/or nutrition shall be withheld or withdrawn.

LGBTQ+ Issues

While *Obergefell*[27] rights are no longer in immediate danger,[28] attorneys assisting clients who are part of LGBTQ+ communities may wish to include explicit protections, in case the right to gay marriage is ever challeneged again. The author includes the following provision in her documents for her LGBTQ+ clients:

> When a person is named as a relative in this document, that person shall be treated as the relationship listed, regardless of any (non-divorce/DV) governmental/judicial decisions, actual blood relation, or court record.

Religious and Secular Preferences

Religious or secular choices are also a way of helping our clients feel empowered to know they will die with the principles with which they lived. For religious families, outlining specific hospital(s) of choice, requesting the principal's spiritual leader provide a blessing at the end of life and requesting religious services can help a client feel less nervous about dying.

For secular families, specifically requesting to only be admitted to a secular hospital(s) can help ensure the principal feels safe and that their choices will be honored, regardless of religious affiliation. The following provision can help bolster this confidence:

> Any physician unwilling to comply with my directive shall immediately transfer my care to another health care provider. Until my care is transferred and accepted by a willing provider, my attending physician must comply with the medical treatment regardless of objection, if lack of action would likely result in my death. 63 OK Stat §3101.9 (Physician or health care provider unwilling to comply with act).

CONCLUSION

Every individual deserves the peace of mind that comes from knowing their health care wishes will be honored. By carefully preparing an HPOA and an advance directive and by adding provisions that reflect personal values and unique needs, attorneys can help their clients maintain control even during times of incapacity.

ABOUT THE AUTHOR

Corinne Taylor-Davis is the founder of Rosetta Law, the plain language law firm. Ms. Taylor-Davis' practice focuses on approachable estate planning and small business counsel. She is passionate about helping her clients understand their options and develop pragmatic solutions in language everyone understands. Ms. Taylor-Davis received her law degree from Suffolk University Law School and her business degree from Southern New Hampshire University.

ENDNOTES

1. *See* 63 O.S. §§3111.1-13 (Oklahoma Health Care Agent Act).
2. *See* 63 O.S. §3111.5.
3. *See* 63 O.S. §3101.4(B).
4. POLSTs (physician orders for life-sustaining treatment) and DNRs (do-not-resuscitate) are medical orders that may only be drafted by physicians. *See* 63 O.S. §§3105.1-5 (Physician Orders for Life-Sustaining Treatment Act); 63 O.S. §§3131.1-14 (Oklahoma Do-Not-Resuscitate Act). As this article's focus is on how attorneys can assist clients, the author has chosen not to further expound on these forms.
5. *See* 63 O.S. §§3101.1-3102A (Oklahoma Advance Directive Act).
6. *See* 63 O.S. §3111.5 (power of attorney for health care form); 63 O.S. §3101.4 (advance directive form and procedures).
7. Radhika Chalasani, "A Look Back: The Terri Schiavo Case," www.cbsnews.com, March 31, 2016, https://bit.ly/4qjtvMm.
8. *See* 63 O.S. §3080.3; 63 O.S. §3080.4.
9. *See* 63 O.S. §3111.5.
10. The HPOA form names a health care "Agent," whereas the advance directive form names a "Health Care Proxy." The author combines these sections, substantially following the advance directive form and including agent obligations.
11. *See* 63 O.S. §3111.3; 63 O.S. §3101.4. Individuals under the age of 18 may create HPOAs and advance directives in certain circumstances. *See* 63 O.S. §2602.
12. *See* 63 O.S. §3111.3; 63 O.S. §3101.4.
13. *Id*.
14. *See* 63 O.S. §3111.3(B).
15. *See* 63 O.S. §3111.3(C).
16. *See* 63 O.S. §3111.4.
17. *See* 63 O.S. §3101.4.
18. *See* 63 O.S. §3101.6.
19. *In re Guardianship of Moe*, 81 Mass. App. Ct. 136, 960 N.E.2d 350 (Mass. App. Ct. 2012) (guardian sought to end pregnancy against the wishes of schizophrenic principal, held in violation of due process).
20. *See* 63 O.S. §3101.11.
21. For additional examples of how HPOAs and advance directives may involve elder abuse, *see* Lori Stiegel, "Legal Issues Related to Elder Abuse, A Pocket Guide for Law Enforcement," American Bar Association Commission on Law and Aging, 2014, https://bit.ly/46uSllf.
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27. *Obergefell v. Hodges*, 576 U.S. 644 (2015).
28. *Davis v. Ermold*, cert. denied, No. 25-125 (U.S. Nov. 10, 2025).

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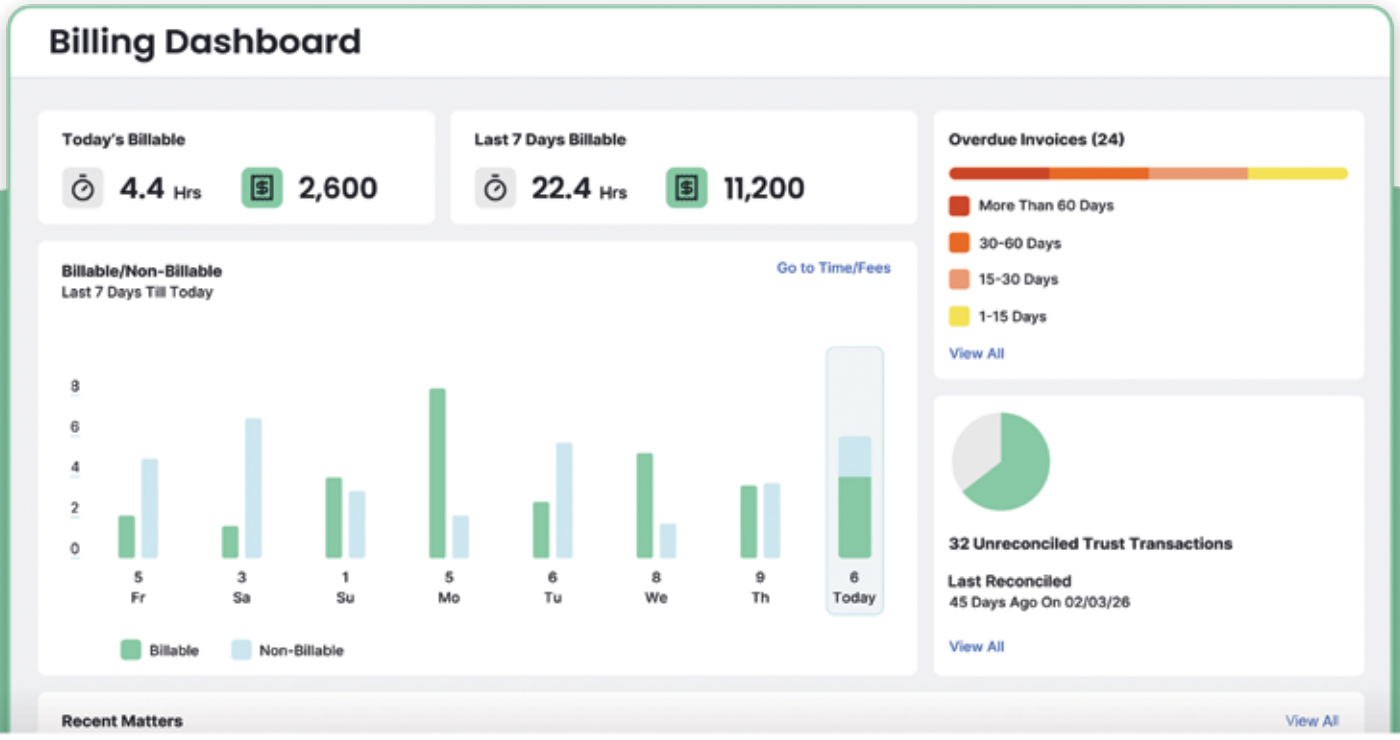

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HIPAA Compliance for Oklahoma Attorneys: Practical Tips and Compliance Considerations

By Lauren K. Lindsey

THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996, more commonly known as HIPAA, sets the national standard for safeguarding a patient's protected health information. It was initially introduced as the Health Insurance Reform Act, with the goal of reducing the risks of an uninsured workforce by regulating the health insurance industry. A primary focus of the original act was to facilitate the movement of health insurance coverage among providers without a loss of benefits or disruptions to continuity of care.

The provisions that many of us associate with HIPAA, including the privacy rule, were added to the act years later. As the portability of health insurance – and with it, health data – expanded, so did the need for enhanced privacy protections. In 2003, the U.S. Department of Health and Human Services issued the privacy rule standards to "address the use and disclosure of individuals' health information" and to allow individuals to "understand and control how their health information is used."[1]

Today, a complex web of federal and state statutes and administrative laws imposes strict requirements on those handling health information. This means HIPAA compliance isn't just a concern for hospitals and health insurance companies. Attorneys handling health information in a variety of practice areas are subject to HIPAA's requirements, as well as its penalties. This article seeks to identify common HIPAA compliance pitfalls and tips for maintaining proper privacy standards throughout your practice.

WHO IS SUBJECT TO HIPAA

You are required to comply with the HIPAA Privacy Rule if you meet the definition of a covered entity or business associate.[2] "The HIPAA Rules are limited in application to (1) health plans, healthcare clearing houses, and those healthcare providers that transmit health information in electronic form in connection with standard transactions, including health insurance claims ('covered entities'); and (2) persons or entities that access or use protected health information (PHI) to provide certain services to, or perform certain functions on behalf of, covered entities ('business associates')."[3]

To assist with identifying whether you are a covered entity, the Centers for Medicare & Medicaid

Services (CMS) offers an interactive decision tool. The tool and additional simplification resources can be found on the CMS website.[4] Companion regulations passed in 2009 have extended the HIPAA privacy, security and enforcement rules to business associates automatically, without the requirement of a written contract or a business associate agreement (BAA).[5]

In practice, this means that outside legal counsel or contractors for any person or organization that furnishes, bills or is paid for health care in the normal course of business must comply with HIPAA. Further, covered entities and business associates are responsible for ensuring systems for receiving, storing, accessing, transmitting and destroying PHI meet HIPAA standards.

COMPLIANCE TIPS FOR ATTORNEYS BOUND BY HIPAA

Due to the confidential and private nature of PHI, any custodian should always be cautious of

disclosure, regardless of whether they are bound by HIPAA. The HIPAA Privacy Rule "generally prohibits a covered entity from using or disclosing protected health information unless authorized by patients, except where the prohibition would result in unnecessary interference with access to quality health care or with certain other important public benefits or national priorities."[6]

Those subject to HIPAA may be liable for civil and criminal penalties for unauthorized disclosure. Key compliance considerations for attorneys include:

Only Disclose PHI in Response to a Valid Medical Authorization, Court Order or for a Legally Permissible Purpose

A covered entity or business associate may use or disclose PHI for treatment, payment, health care operations or for a public benefit activity without prior oral or written authorization.[7] These permissible disclosures are complex and beyond the scope of this article. They are defined by statute and are the subject of helpful guidance by HHS.[8]

A subpoena alone is not sufficient to authorize disclosure of PHI from a covered entity or business associate.[9] Any subpoena for PHI should be accompanied by a valid medical authorization, a qualified protective order signed by the court or written assurances that the issuing attorney made a good faith attempt to provide written notice of the subpoena, and the patient did not object, or the patient's objections were resolved by the court.[10]

HIPAA expressly defines what constitutes a valid medical authorization.[11] The Oklahoma State Department of Health Standard Authorization to Use or Share PHI includes the "core elements" required by HIPAA. It can be downloaded from the Oklahoma State Department of Health website.[12]

The DHS authorization form was created to facilitate the transfer of patient medical information among health care providers in Oklahoma. To be used for other purposes, such as the release of medical records in a personal injury lawsuit, additional language may be necessary. For example, to comply with Oklahoma jurisprudence, the following language may be added to the authorization:

> My health care providers are authorized to discuss any and all confidential medical information, subject to this authorization, with attorneys at [ ]. Their decision to communicate with said attorneys is purely voluntary and may not be compelled or prohibited by any party.[13]

If the disclosure is for some other legally permissible purpose, a medical authorization is not required. These permitted disclosures include preventing or controlling disease, reporting child abuse, reporting births and deaths, law enforcement purposes, reporting suspected criminal activity or other uses or disclosures required by law.[14] Any disclosure of PHI by a covered entity should be approved and documented in an accounting of disclosures. This must be maintained for at least six years.[15]

Ensure All Devices That Receive, Store, Access or Transmit PHI Are Properly Secured and Encrypted and That Staff Is Trained on Your Compliance Practices and Incident Management Process

Documents containing PHI should not be transmitted electronically without additional security protections. This generally means your systems for receiving, storing, accessing, transmitting and destroying PHI must be secure. Unlike the HIPAA Privacy Rule, which applies to all forms of PHI, the HIPAA Security Rule applies only to electronic PHI.

The security rule requires any device or system that creates, maintains or transmits PHI to have technical safeguards and integrity controls, such as a security management process and data backup plan. It does not expressly require data encryption. However, depending on the size, resources and scope of PHI managed by the entity, encryption is likely considered best practice. It may also be mandated by your BAA, malpractice or cybersecurity insurance policies or other written agreements. Regardless of your security measures, you should document the rationale for your security decisions.[16]

Failure to comply with the security rule can result in direct enforcement action against not only a covered entity but also a business associate.[17] The security management process under HIPAA requires the implementation of "policies and procedures to prevent, detect, contain, and correct security violations."[18] This includes the following required actions:

- Conduct an accurate and thorough risk analysis of the confidentiality, integrity and availability of PHI;
- Implement security measures sufficient to reduce risks and vulnerabilities, such as a security policy, use of password-protected files, data encryption and door locks on rooms where electronic PHI is stored;

- Impose a sanctions policy for violations of the security policy;
- Implement data backup procedures to maintain retrievable copies of electronic PHI;
- Ensure procedures for the proper final disposition or disposal of PHI; and
- Adopt breach response, notification and documentation policies.

Compliance tools are only effective if everyone in your office with access to PHI uses them. The security rule also contains training and documentation requirements. Guidance from HHS on each of these requirements can be accessed online through the Security Rule Educational Paper Series by HHS.[19]

Business Associate Agreements Are Not Optional for Vendors or Systems Receiving PHI Electronically From You as a Covered Entity or Business Associate

Failure to enter into BAAs with subcontractors who create or receive PHI on your behalf can result in direct enforcement action.[20] If you are outside legal counsel for a covered entity, you are likely using an electronic case management system that stores claimant PHI. In your day-to-day representation of the covered entity, you may also electronically transmit PHI to vendors who perform vital functions, such as:

- Printing and binding records for delivery to a witness;
- Printing and filing pleadings with exhibits under seal in a distant county;
- Designing hearing and trial exhibits; and
- Offering data storage and transmission services.

As an entity subject to the HIPAA rule, you should have a BAA with any vendor or service provider who has access to the PHI you possess from a covered entity that is not otherwise subject to a protective order. Most vendors that operate in the legal or health care space have BAA forms available upon request. Consider your tablet, trial software, storage programs and other ways you store and use PHI to determine if you need a BAA and if you are following consistent compliance measures across all systems.

CONCLUSION

As the electronic medical record and health data marketplace continues to grow, so too do the risks of unauthorized disclosure of PHI. As cybersecurity threats, public awareness of data breaches and enforcement frameworks proliferate, it is important to stay on top of proper privacy and security standards throughout your practice.

ABOUT THE AUTHOR

Lauren K. Lindsey has represented hospitals and health care providers in complex medical malpractice litigation and regulatory actions for more than a decade. An advocate in and out of the courtroom, she emphasizes meticulous preparation, effective negotiation and strong trial strategy to achieve the best results for her clients. Ms. Lindsey's representation of health care facilities and medical providers also allows her to combine her passions for civic engagement, continuing education and advocacy for the benefit of the medical system as a whole.

ENDNOTES

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5. 42 U.S.C. §17931.
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7. 45 C.F.R. §164.501; 45 C.F.R. §164.500(a), (c).
8. 45 C.F.R. §164.506; *see also* HHS, OCR HIPAA Privacy: "Uses and Disclosures for Treatment, Payment, and Health Care Operations," 45 CFR 164.506 (rev. April 2003) https://bit.ly/4k4qiPc.
9. 45 C.F.R. §164.512(e); *see also* 43A O.S. §1-109(D).
10. *Id.*
11. 45 C.F.R. §164.508(c)(1) and (2).
12. https://bit.ly/3ZEN2fj.
13. *Holmes v. Nightingale*, 2007 OK 15, ¶¶31-32.
14. 45 C.F.R. §164.512.
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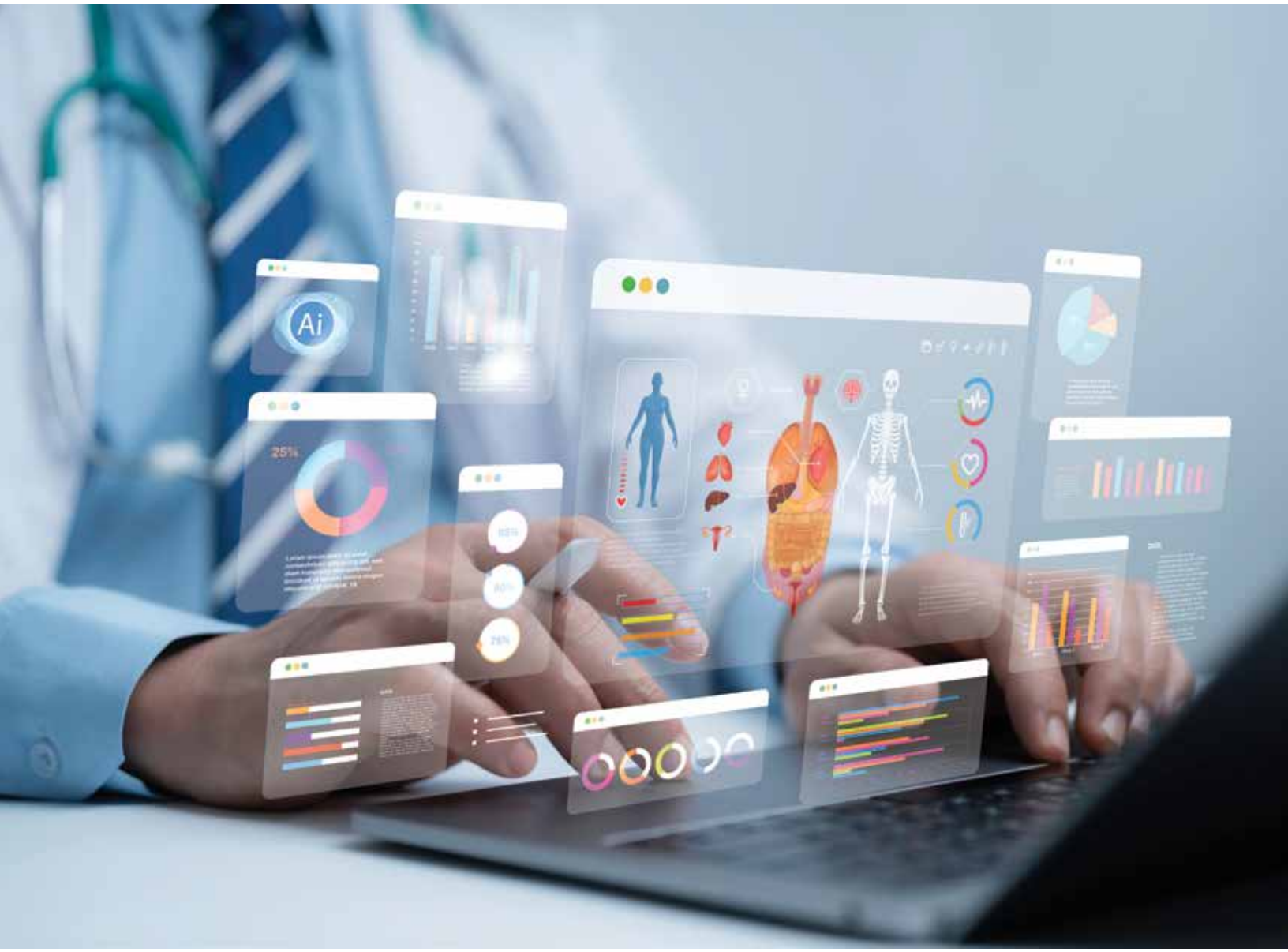
Processing Health Records With AI Under HIPAA

By Jason T. Seay, Philip D. Hixon and Richard M. Cella



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ARTIFICIAL INTELLIGENCE TOOLS, INCLUDING LARGE LANGUAGE MODELS, are quickly transforming how health care organizations process and analyze vast amounts of clinical data. Health care information has been exchanged by health care entities in digital format for over 30 years, and most electronic health records are highly structured, making them easily processable by computers. AI holds the promise to make current data operations even faster and more efficient. From predictive modeling to workflow automation, AI offers insights and turnaround times that were previously impossible for human teams alone. Many health care entities use AI as part of their data analytics operations to conduct payment and coding audits, automate prior authorization processes and directly interface with patients. Some entities are actively exploring the use of generative AI for predictive modeling, which holds the promise of new diagnostic insights that may increase provider efficiency and ultimately lower health care costs.

The upside that AI offers for health care data processing is not without risk. Industry experts have expressed concern that patient privacy rights may not be adequately protected when processing data with AI.[1] Some have expressed concern that AI processing of patient information may lead to the automated, inadvertent redisclosure of patient personally identifiable information in AI output.[2] Health care data often includes protected health information (PHI), which is governed by the strict privacy and security requirements of the Health Insurance Portability and Accountability Act of 1996 and related statutes and regulations[3] (collectively HIPAA). PHI, by definition, contains personally identifiable information of patients.

Processing PHI with AI tools can raise serious HIPAA compliance risks if proper safeguards are not implemented. Data should generally be processed only for payment, treatment and health care purposes as permitted by HIPAA. For processing activities falling outside these categories, it may be necessary to create de-identified data sets for processing. This article presents the general parameters under which covered entities may use AI to process PHI under HIPAA. For processing activities falling outside these general parameters, this article generally explains the process by which PHI may be de-identified under HIPAA for such uses.

WHAT IS PHI, COVERED ENTITY AND BUSINESS ASSOCIATE?

Under HIPAA, individually identifiable health information[4] or PHI[5] includes demographic data tied to an individual's past, present or future physical or mental health, health care services received or payment related to health care services that either identify an

individual or provide a reasonable basis to believe can be used to identify the individual. Such information held or transmitted in any form or media by a "covered entity" or "business associate" is protected under the privacy rule. "Covered entity" under the privacy rule means a health plan, a health care clearinghouse or a health care provider that transmits any health information in electronic form in connection with certain transactions under the rule.[6] "Business associates" include persons or organizations that perform functions on behalf of covered entities where such functions involve the use or disclosure of PHI.[7]

GENERAL USE RESTRICTIONS ON PROCESSING PHI

In the absence of express patient consent for specific processing activities, the privacy rule generally permits a covered entity to only use or disclose PHI for treatment, payment or health care operations as set forth in the regulations, with some limited exceptions.[8] Treatment is broadly defined as the provision, coordination or management of health care and related services.[9] Payment includes a range of activities from health plan coverage activities, risk adjusting, billing, claim adjustment, collection activities and receipt of payment.[10] Health care operations include, among other things, a host of internal (and sometimes external) quality assessment and improvement activities.[11] The permissible uses and disclosures may be for purposes of the covered entity's own activities or for those of another covered entity having a relationship with the individual whose information is used or disclosed.[12]

Covered entities are generally limited to processing PHI for these purposes, unless a patient consents in writing to other uses of their PHI.[13] Many uses of AI can be adequately categorized as a treatment, payment or health care operation because the regulations are agnostic as to the manner of permissible processing. However, some use cases of AI do not squarely fall within them. An example may arise where PHI from multiple patients is combined into a single data set, which is then used to train AI to perform automated diagnostic functions. Another example is where such data sets are used to create data analytics[14] used for purposes unrelated to treatment, payment or health care operations – such as finding potential participants in a clinical study or trial. For such uses, it may be necessary to first de-identify the data before it is processed.

DE-IDENTIFICATION OF PHI

Generally, "de-identification" is a process whereby all personally identifiable information, and information that could be used to identify an individual, is removed from the data set to be processed. De-identified health information may typically be used or shared without restriction because such data is no longer considered PHI under HIPAA regulations. It generally neither identifies nor provides a reasonable basis to identify an individual.[15] HIPAA regulations permit the de-identification of PHI through either formal determination by a qualified expert or by the removal of specified identifiers.[16]

The Expert Determination Method

The first method requires a qualified individual to have appropriate knowledge of and experience with statistical and scientific principles for rendering information not individually identifiable. The expert must apply such methods to determine that the risk is "very small" that the information could be used to identify an individual. In making the determination, the expert must document their methods and results, justifying the decision.[17]

Experts need not be connected to the health care field and may come from statistical, mathematical or other scientific domains.[18] Considerations on the identification risk are fact-dependent, and an acceptable "very small" risk is based on the ability of an anticipated recipient to identify an individual in each circumstance. Some principles relied on to determine risk include replicability, data source availability and distinguishability.[19] The expert is often looking at the degree to which a data set can be "linked" to a data source that reveals the identity of the corresponding individuals.[20] At times, the expert may recommend modifying a data set in order to mitigate the risk. Such modifications include adjusting certain features or values in the data to ensure that any unique, identifiable elements no longer exist.[21]

The Safe Harbor Method

The second "safe harbor" method requires the removal of 18 specific identifiers[22] (see the sidebar) in combination with a covered entity having no "actual knowledge" that any remaining information could be used to re-identify an individual.[23] The identifiers of the individual, as well as those of the relatives, employers or household members of the individual, must be removed.

"Actual knowledge" in this context means "clear and direct

THE SAFE HARBOR METHOD

The "safe harbor" method requires the removal of 18 specific identifiers in combination with a covered entity having no "actual knowledge" that any remaining information could be used to re-identify an individual (see endnote 22). The identifiers are:

1) Names;
2) Geographic subdivisions smaller than a state (street address, city, county, precinct, zip code, equivalent geocodes) except for the initial three digits of a zip code, subject to geographic units above or below 20,000 people;
3) All elements of dates except year directly related to an individual (birth, admission, discharge, death) and all ages over 89, including all elements of dates indicative of age, except such ages and elements may be aggregated into a category of 90 or older;
4) Phone numbers;
5) Fax numbers;
6) Email addresses;
7) Social security numbers;
8) Medical record numbers;
9) Health plan beneficiary numbers;
10) Account numbers;
11) Certificate/license numbers;
12) Vehicle identifiers and serial numbers, including license plates;
13) Device identifiers and serial numbers;
14) URLs;
15) IP addresses;
16) Biometric identifiers, including voice and fingerprints;
17) Full-face photographic images and comparable images; and
18) Any other unique identifying numbers, characteristics or codes.

knowledge that the remaining information could be used, either alone or in combination with other information, to identify an individual who is a subject of the information."[24] Essentially, if the covered entity is not aware that the de-identified information can be used, alone or in conjunction with other data, to identify an individual, then it will likely not have "actual knowledge" of a de-identification risk.

Both de-identification methods yield data that retains some risk of identification. Yet, regardless of the method, the privacy rule does not restrict the use or disclosure of de-identified health information because the de-identified data is no longer considered PHI under HIPAA.[25] Data sets de-identified under HIPAA regulations may therefore be used for purposes unrelated to treatment, payment or health care operations.

OTHER CONSIDERATIONS

This article provides a brief overview of HIPAA compliance risk associated with AI-related processing. It does not substantively address contractual and other regulatory risks related to AI processing of health information.

Contractual obligations between or among covered entities, business associates and subcontractors may either prohibit de-identification altogether or condition de-identification on consent of an upstream entity, such as the covered entity. Such restrictions may be contained in the parties' business associate agreement or in the substantive services agreement. For example, many private payors place restrictions on a data recipient's ability to de-identify data. Many health information exchanges, which are used to exchange PHI between covered

entities, also impose contractual restrictions on the use and processing of PHI. Before undertaking de-identification, the covered entity, business associate or subcontractor should confirm that its contract does not contain a prohibition on de-identification and, likewise, does not restrict processing of de-identified information with AI.

The use of AI to process health information can potentially result in a reportable breach.[26] By way of example, a somewhat analogous scenario exists with regard to the use of protected attorney-client or work product information, with any protection being forfeited when used in conjunction with large language model AI.[27] Before using AI to process PHI in connection with a permissible use, an evaluation of the AI tool is necessary to confirm that it is HIPAA compliant.

The use of AI to process either PHI or de-identified health information may also trigger other obligations under HIPAA, such as patient authorization and consent issues[28] or amendment of privacy practice notice documents,[29] which are outside the scope of this discussion. It may be necessary to establish a specialized compliance function within an entity to address these issues.

Authors' Note: The authors acknowledge the assistance of Mallory Duncan, a 2026 J.D. candidate at the OU College of Law, whose research contributed to this article.

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3. *See, e.g.,* Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH), Pub. L. 111-5, Tit. XIII, §§13001-13424 (Feb. 17, 2009) (enhancing HIPAA's privacy, security and breach-notification requirements); *see also* Cal. Civ. Code §56.05 *et seq.* (Confidentiality of Medical Information Act); N.Y. Pub. Health Law §18 (patient access to records); Tex. Health & Safety Code §181.101 *et seq.* (Texas Medical Records Privacy).
4. 45 C.F.R. §160.103, "Individually Identifiable Health Information."
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9. 45 C.F.R. §164.501, "Treatment."
10. 45 C.F.R. §164.501, "Payment."
11. 45 C.F.R. §164.501, "Health care operations."
12. 45 C.F.R. §164.506(c).
13. For health care entities with large patient populations, with historical data sets extending back years, or where multiple consent documents have been used over time, it can be difficult to collate what specific subsets of PHI are subject to which patient consent documents. Restricting AI processing activities to treatment, payment or health care operations can help alleviate the need to rely on patient consent for processing PHI.
14. "Data analytics" generally means the process of examining data to produce actionable insights. For example, using statistics, querying and computation to describe large trends or patterns identified in data. This is often referred to as "insights data."
15. *See* OCR "Privacy Brief, Summary of the HIPAA Privacy Rule," https://bit.ly/3ZPfJWT, last revised 05/03, page 4, De-Identified Health Information; *see also* 45 C.F.R. §§164.502(d)(2), 164.514(a) and (b).
16. 45 C.F.R. §164.514(b).
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18. "Guidance on De-identification of Protected Health Information," Nov. 26, 2012, https://bit.ly/4qYgljw, page 10.
19. *Id.* at 13-14.
20. *Id.* at 15.
21. *Id.* at 18.
22. *See* identifiers listed in the sidebar on page 29. 45 C.F.R. §164.514(b)(2)(i)(A)-(R). Examples of things that may fall under the "any other unique" category include clinical trial numbers, barcodes from medical records or electronic prescribing systems and occupations or characteristics that set an individual apart. *See Guidance on De-identification of Protected Health Information*, Nov. 26, 2012, https://bit.ly/4kBKqc1, page 26.
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Independent Practice, Supervision and Scope: A Legal Guide for PAs and APRNs in Oklahoma

By Fareshteh H. Hamidi

IN 2025, OKLAHOMA ENACTED LEGISLATION expanding the autonomy of experienced mid-level health care providers, including advanced practice registered nurses (APRNs) and physician assistants (PAs).[1] [2] These changes modify long-standing physician supervision rules once required for all mid-level providers, including those with many years of experience, and allow certain mid-level providers to practice with less physician oversight once they have met statutory experience requirements. These reforms reflect broader national efforts to improve health care access and workforce shortages across the state. Considering Oklahoma's physician-to-patient ratio is a whopping "39% worse than the national average," and the state ranks "nearly last in total physician supply," it is no surprise that all but two Oklahoma counties are designated as health care professional shortage areas, meaning there are too few doctors to provide basic care.[3] That is where mid-level providers make the biggest impact. "The number of employed PAs in the U.S. is expected to grow by 39,300 or 31.3% between 2019 and 2029 ... [t]his growth rate is well above the average rate of labor growth in the healthcare industry," as described by the *Journal of Market Access & Health Policy*.[4] The authors go on to assert that by comparison, the projected growth rate for U.S. physician and surgeon positions over the same time period is 3.6%, with a projected 27,300 new physician/surgeon positions over that time.[5]

In an effort to tilt Oklahoma's provider shortage statistics in the other direction and recognize the training and experience of the state's mid-level providers, the Legislature enacted new laws to that effect last year. Under House Bill 2298, which was codified on Nov. 1, 2025, APRNs who complete 6,240 hours of supervised clinical practice may apply for independent prescriptive authority to prescribe Schedule III to V drugs.[6] Until that hours requirement is met and approved by the Oklahoma Board of Nursing, an APRN must continue to practice under a physician supervision agreement.[7] Similarly, House Bill 2584, also codified in 2025, reduces supervision requirements for PAs by permitting experienced PAs to practice without a formal supervising physician, as long as they meet statutory criteria and maintain appropriate collaborative relationships and professional liability coverage of a minimum amount of $1 million per occurrence and $3 million in the aggregate per year.[8] These liability minimums are also standard amounts for physicians (and now, APRNS with

independent prescriptive authority) to carry in Oklahoma. The statutory expansion also includes prescriptive authority for PAs to prescribe Schedule III to V drugs without a physician supervision agreement.

Although these laws expand autonomy, supervision requirements remain highly dependent on the practice setting. Hospitals and health systems often impose their own credentialing, privileging and oversight rules that may exceed statutory minimums. Clinics may require written collaboration or supervision agreements as a condition of employment or payor participation. Additionally, certain regulatory frameworks – such as osteopathic supervision rules – continue to require documentation, chart review and occasional physician involvement for mid-level providers who have not qualified for independent practice.[9]

Medical spas present a separate and more restrictive regulatory environment. Even where mid-level providers otherwise qualify for independent practice, Oklahoma law and medical board guidance require physician involvement in procedure-based medical spa services. This includes establishing the physician-patient relationship (which mid-level providers can only do with physician supervision), delegating services within the mid-level provider's scope and maintaining oversight of cosmetic and aesthetic procedures.[10] [11]

As these changes take effect, attorneys advising health care providers, employers and stakeholders must understand how the updated statutes interact with facility policies, board rules and setting-specific supervision requirements.

HISTORICAL FRAMEWORK OF PA AND APRN SUPERVISION IN OKLAHOMA

For decades, Oklahoma regulated PAs and APRNs through statutes that required physician supervision or collaboration as a condition of their practice. These requirements could be found in Title 59 and were enforced through separate licensing boards. Although the two professions were regulated under different acts, both were subject to physician-centered oversight models that limited independent clinical and prescribing authority.[12] While national standards for both professions evolved toward greater independence, Oklahoma law continued to treat physician oversight as a core patient-safety mechanism. Between the two professions, statutory changes occurred slowly and unevenly.[13]

APRN REGULATION AND LEGISLATIVE HISTORY

APRNs are licensed under the Oklahoma Nursing Practice Act and include certified nurse practitioners, certified registered nurse anesthetists, certified nurse-midwives and

PRACTICAL STEPS FOR COUNSEL

For lawyers advising health care providers or employers, Oklahoma's regulatory framework requires a layered analysis:

1) Identify the provider's licensure type and experience status
2) Determine whether statutory independence applies
3) Review applicable board rules and guidance
4) Evaluate facility bylaws, employment contracts and delegation agreements
5) Consider federal program and payor requirements
6) Assess risk based on the actual practice setting, not just the statute

The result is a regulatory environment in which "independent practice" under state law does not always translate into independent practice in fact.

clinical nurse specialists.[14] Initially, the act authorized advanced nursing *practice* but conditioned any prescriptive authority on a formal supervisory relationship with a physician. The supervising physician's role was defined in statute and Board of Nursing rules, and APRNs could not prescribe independently under Oklahoma law.

Between the 1990s and early 2020s, legislative amendments affecting APRNs primarily addressed the scope of delegated prescriptive authority and controlled substance limitations and requirements for physician supervision agreements related to prescribing. These amendments expanded certain practice functions but did not eliminate the requirement that APRNs maintain physician involvement as a condition of prescribing. As a result, APRNs remained legally dependent on physician supervision even where their clinical practice authority had otherwise expanded.[15] During this period, Oklahoma APRN advocates focused on statutory recognition of advanced licensure, alignment with national practice advancements and access to care – particularly in rural and underserved areas. Despite repeated legislative proposals, reform efforts stalled due to concerns raised by physician organizations and regulators regarding patient safety and accountability.[16]

PA REGULATION AND LEGISLATIVE HISTORY

The first PA class, consisting of four Navy hospital corpsmen, graduated from Duke University's PA program on Oct. 6, 1967.[17] The PA concept was lauded early on and gained federal acceptance and backing as early as the 1970s as a creative solution to physician shortages.[18] Oklahoma law historically required PAs to practice pursuant to written supervision agreements that identified a supervising physician, specified authorized practice locations and listed the medical acts delegated to the PA.[19] Unlike APRNs, whose authority is derived from their nursing license, PA authority was explicitly derivative of physician delegation. Oklahoma statutes also addressed physician availability, chart review and limits on prescriptive authority.[20] Although amendments over time allowed increased flexibility, particularly in rural or underserved settings, the supervision requirement remained a central feature of PA regulation.[21]

PA advocates emphasized that the delegation-based model created administrative burdens, limited mobility between practice settings and failed to acknowledge modern PA education and certification standards. Unlike APRN advocacy, PA reform efforts generally focused on replacing rigid supervision requirements with more flexible collaboration standards.

COVID-19 EMERGENCY MEASURES

The COVID-19 crisis prompted temporary regulatory changes to address acute health care workforce shortages.[22] These measures allowed APRNs and PAs to practice with reduced physician involvement in defined circumstances and provided real-world evidence that they could exercise expanded autonomy without immediate adverse patient safety issues. Although these emergency measures were temporary, they later influenced legislative discussions by providing practical examples of alternative regulatory models.[23]

THE 2025 LEGISLATIVE REFORMS

Ultimately, in 2025, the Oklahoma Legislature enacted significant statutory reforms affecting both APRNs and PAs. Rather than adopting blanket independence, the Legislature chose experience-based autonomy models tied to documented clinical practice hours and continued board oversight.

APRNS – HOUSE BILL 2298

As recently as 2024, Gov. Stitt vetoed Senate Bill 458, which "would have allowed providers like nurse practitioners to independently prescribe certain drugs [Schedule III to V drugs, which include things like anabolic steroids, Ambien and Xanax]," saying "these professionals shouldn't have this power."[24] Nevertheless, state lawmakers voted to override the governor's veto, thus forging the path toward today's version of the Oklahoma Nursing Practice Act.[25] House Bill 2298 amended the Nursing Practice Act, most notably in Okla. Stat. tit. 59 §567.4c, to authorize independent prescriptive authority for APRNs who complete at least 6,240 hours of supervised clinical practice that includes prescribing.[26] Eligibility is determined by the Oklahoma Board of Nursing, which retains authority to establish rules governing documentation, application procedures and ongoing compliance. APRNs who qualify are no longer required to maintain a supervising physician relationship for prescribing up to a 30-day supply of Schedule III to V drugs, though they remain subject to nursing board discipline and applicable scope-of-practice limitations.

For attorneys advising APRNs or health care employers, House Bill 2298 creates a clear statutory distinction between APRNs with independent prescriptive authority and those who remain subject to supervision requirements.

PAS – HOUSE BILL 2584

Just as he did with the similar APRN-focused bill in 2024, Oklahoma's governor vetoed House Bill 2584, a bill designed to give PAs the flexibility they sought.[27] Once again, state lawmakers banded together to override the governor's veto. "The passage of this law allows PAs to do what PAs do best, take care of patients," said Jeff Burke, PA-C, president of the Oklahoma Academy of Physician Associates.[28] House Bill 2584 amended 59 O.S. §519.6 to allow PAs with at least 6,240 hours of postgraduate clinical experience to practice without a supervising physician agreement in place.[29] The statute removes the previous prohibition against unsupervised PA practice and, in Subsection (D), expands prescriptive authority for qualifying PAs.[30]

The law directs the Oklahoma State Board of Medical Licensure and Supervision to verify eligibility and maintain a list of PAs authorized to practice independently.[31] PAs who do not meet the experience threshold remain subject to supervision requirements under existing statutory and regulatory provisions. From a compliance perspective, the statute creates two distinct regulatory categories for PAs with differing supervision and prescribing obligations. For instance, PAs engaged in a PA-physician supervision agreement may prescribe Schedule II drugs when their supervising physician is authorized to prescribe Schedule II drugs, while independent PAs cannot prescribe Schedule II drugs.[32]

LEGAL SIGNIFICANCE

Taken together, these reforms mark a shift away from universal physician supervision toward profession-specific regulation based on licensure, experience and board oversight. The Legislature preserved regulatory accountability by retaining licensing board authority while allowing greater autonomy for experienced providers.[33]

For attorneys advising health care practitioners, employers or regulators, the current statutory framework requires careful attention to experience thresholds, board recognition status and compliance obligations under the Nursing Practice Act and Physician Assistant Act updates.

SUPERVISION AND SCOPE OF PRACTICE ACROSS SETTINGS: OKLAHOMA'S REGULATORY PATCHWORK

Despite recent statutory reforms, Oklahoma law does not create a uniform supervision or scope-of-practice framework for PAs and APRNs. Instead, legal requirements vary based on licensure type, experience-based independence, practice setting and overlaying regulatory authority, including licensing boards, health care facilities and federal programs. The result is a regulatory patchwork in which the same provider may lawfully perform an act in one setting but not another.

OFFICE-BASED PRACTICES AND CLINICS

In office-based settings, supervision requirements are governed primarily by Title 59. APRNs who have obtained independent prescriptive authority under the Nursing Practice Act may prescribe and practice without

a supervising physician.[34] That authority is conditioned on completion of the statutory clinical experience requirement and formal recognition by the Oklahoma Board of Nursing.[35] APRNs who have not obtained independent prescriptive authority remain subject to physician supervision for prescribing and must comply with collaborative practice requirements established by statute and board rules.

PAs who meet the experience threshold established by statute may practice without physician supervision.[36] For PAs who do not meet that threshold, Oklahoma law continues to require a written supervision agreement identifying the supervising physician, delegated medical acts and oversight responsibilities.

HOSPITALS AND HEALTH SYSTEMS

Hospitals add an additional layer of legally enforceable regulation that operates independently of licensure statutes. Oklahoma law does not require hospitals to grant privileges or clinical authority coextensive with a PA's or an APRN's statutory scope of practice. Instead, hospitals retain authority to regulate practice through medical staff bylaws, credentialing standards and privileging decisions.[37] As a result, a PA or an APRN who may lawfully practice independently under Oklahoma statutes may still be required by hospital policy to obtain a physician co-signature for orders, limit performance of procedures or practice under physician oversight as a condition of privileges. These requirements arise from hospital governance authority and accreditation standards rather than from the Physician Assistant Act itself.[38]

MEDICAL SPAS AND AESTHETIC PRACTICES

Despite being termed "medical spas," only 37% of such facilities in the U.S. were owned by physicians as of 2022.[39] Further, 70% of medical spas lack any affiliation with a physician practice.[40] Medical spas present heightened regulatory risk because many aesthetic services constitute the practice of medicine under Oklahoma law. Okla. Stat. tit 59 §492 defines the practice of medicine broadly, and the Oklahoma State Board of Medical Licensure and Supervision has historically treated procedures – such as injectable treatments, laser therapies and use of energy-based devices – as medical acts when performed on human tissue.[41] For these reasons, the American Medical Association issued guidance stating that states should enact medical spa safety laws that:

- Ensure a supervising physician is present at the site, can immediately respond in person as needed and is trained in the indications for and performance of any cosmetic medical procedure performed
- Require a supervising physician to perform initial patient assessments, develop a written treatment plan for each patient and obtain patient consent if the procedure is being done by a nonphysician
- Obligate any nonphysicians to wear badges that clearly identify their licensure and communicate that they are not physicians[42]

Negative stories of local medical spa clients claiming disfigurement by microneedling, laser and Botox treatments stem from unsupervised *estheticians* – not APRNs or PAs – performing procedures classified as medical in nature.[43] Nevertheless, medical spa owners are sensitive to the heightened scrutiny of regulators who look for active supervision from physicians.

In Oklahoma, baseline authority for PAs in medical spa settings depends on whether the PA is practicing independently or performing services pursuant to lawful physician delegation.[44] The push for physician, and specifically licensed dermatologist, presence in these settings will likely warrant more physician oversight here than in other settings.[45] APRNs may perform aesthetic procedures only if the procedures fall within advanced nursing practice as defined by statute and Board of Nursing rules. Like physicians, APRNs are legally permitted to administer Botox, fillers, lasers, peels, microneedling, Ultherapy, Kybella and CoolSculpting.[46] In enforcement actions, regulators have focused less on formal supervision documents and more on whether the physician is actively supervising the clinic.[47]

RURAL CLINICS AND UNDERSERVED SETTINGS

Oklahoma statutes do not create a separate scope-of-practice scheme based solely on rural or underserved geography. However, experience-based autonomy under House Bill 2298 and House Bill 2584 has particular relevance in rural clinics, where physician availability may be limited.[48] A TU doctoral nursing program alumna opened up a family practice in Skiatook that serves 600 patients. After

news of the passage of House Bill 2298, she told a local network that *not* having prescriptive authority as an APRN in rural Oklahoma would not work long term.[49]

APRNs and PAs who qualify for independent practice may lawfully operate without physician supervision under state law, but they remain subject to licensing board jurisdiction, controlled substance laws and federal program requirements. Rural health clinics and federally qualified health centers, for example, are subject to federal supervision and Medicare/Medicaid billing requirements beyond those found in Title 59.

CONCLUSION

Oklahoma's regulation of PAs and APRNs combines statutory reforms, board governance and facility policies, creating a patchwork that varies by licensure, experience and practice setting. House bills 2298 and 2584 provide pathways for mid-level providers to practice or prescribe independently, aiding in Oklahoma's health care provider shortage. Still, supervision requirements, scope limitations and federal rules continue to apply. Attorneys advising providers or employers must consider these intersecting authorities to ensure compliance and reduce risk.

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COMPARISON CHART: SUPERVISION AND SCOPE BY SETTING

Setting	PAs (Independent Status)	PAs (Supervised Status)	APRNs (Independent Prescriptive Authority)	APRNs (Supervised)	Primary Legal Authority
Office-Based Clinics	No physician supervision required	Written supervision agreement required	No supervising physician required for prescribing Schedule III to V drugs	Physician supervision required for prescribing	Okla. Stat. tit. 59, §§519.6 and 567.4c
Hospitals	Subject to bylaws and privileging	Subject to bylaws and supervision	Subject to bylaws and privileging	Subject to bylaws and supervision	Hospital bylaws; accreditation standards
Medical Spas	Only within scope and lawful delegation or independence	Physician delegation required	Limited to advanced nursing scope	Physician involvement often required	Okla. Stat. tit. 59, §§492, 519.6 and 567.4c; medical board guidance for supervising physicians
Rural Clinics	Independent practice if statutory criteria met	Written supervision agreement required	Independent prescribing if criteria met	Supervision required	Okla. Stat. tit. 59, §§519.6 and 567.4c
Controlled Substances	May prescribe Schedule III to V drugs as authorized per statute and Drug Enforcement Administration law	May prescribe up to Schedule II drugs as authorized per delegation	Authorized per statute and Okla. Admin. Code	Authorized with supervision	Okla. Stat. tit. 59, §§519.6, and 567.4c; Okla. Admin. Code §435:15-11-1 and §485:10-16-5

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Pillars Under Pressure: The Epidemic of Violence Against Nurses

By Layla J. Dougherty

VIOLENCE AGAINST NURSES IS AN ESCALATING CRISIS IN HEALTH CARE. Nurses are the foundational pillar of our health care system, providing the largest share of direct patient care and spending more time with patients than any other health care discipline.[1] This increased contact with patients and visitors exposes nurses to high-risk situations that endanger their safety. Hospital settings have one of the highest incidences of workplace violence.[2] Workplace violence in nursing is defined as "any act or threat of verbal or physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the worksite with the intention of abusing or injuring the target."[3]

THE SCOPE OF THE PROBLEM

The statistics are alarming. On average, two nurses are assaulted every hour in the United States. The rate of serious injuries related to workplace violence is six times higher for hospital workers compared to all other private sector employees, with as much as 80% of incidents going unreported.[4] The American Hospital Association reports that health care workers suffer more workplace violence than any other profession.[5]

Since 2020, health care workers worldwide have reported a staggering uptick in violence, with nurses experiencing the most dramatic increase.[6] This surge has become one of the leading factors in nurse burnout.[7] With minimal improvement in safety over the past five years, nurses are now seeking support from their communities through collective action. At the time of this writing, nurses are striking in Michigan, California and New York, while strikes have been authorized or completed in Washington, Oregon, Massachusetts, Maine, Louisiana, Minnesota and Pennsylvania. All these labor actions cite nurse safety as a central concern.

CONSEQUENCES FOR NURSES AND PATIENTS

When nurses feel unsafe in the workplace, the consequences extend far beyond the immediate incident. After experiencing or witnessing violence, nurses report reduced sleep, disrupted eating patterns and increased risk of mortality associated with disease.[8] These factors accelerate nurse burnout and lead to declining quality of patient care, which, in turn, drives more nurses to leave the profession.

Workplace violence is directly linked to poor patient outcomes, unhealthy work environments, health care errors, decreased service quality, lack of job satisfaction and high employee turnover. Nurses who have suffered violence in the workplace commonly report anxiety, depression and unhealthy coping mechanisms.

LEGAL PROTECTIONS: INADEQUATE AND UNDERENFORCED

Forty states, including Oklahoma, have established some form of criminal penalty for assaulting nurses. However, seven of these states only apply protections when the assault takes place in emergency or mental health facilities. Despite these laws, statistics show that very few offenders face justice. Law enforcement is often reluctant to file police reports when assaults occur in medical facilities, typically citing the potential mitigating factor of the offender having an underlying medical condition. Even when reports are filed, authorities rarely bring charges, and cases that reach the court system frequently result in dismissals or plea bargains.[9]

OKLAHOMA'S LEGAL FRAMEWORK

Oklahoma Statute 21 O.S. §650.4 makes it a felony to assault a health care worker in the line of duty. Originally enacted May 30, 1990, and subsequently amended in 2000 and 2009, this statute was strengthened through the

Medical Care Provider Protection Act (Senate Bill 1290) in 2020. Legislative notes accompanying the 2020 amendments recognized, "In Oklahoma City hospitals alone, between five and 10 assaults are reported every day, but it's a problem that impacts health care workers throughout the state." The notes further stated, "An estimated 75% of all workplace violence [in Oklahoma] occurs in health care."

The law makes it a felony to assault, batter or commit assault and battery against medical care providers (including doctors, nurses, emergency medical technicians, hospital staff and others) while they are performing their medical duties. Violations carry penalties of up to two years in prison and/or a $1,000 fine. For aggravated assault and battery or assault with a firearm or deadly weapon, Section 650.5 imposes enhanced penalties of two to five years imprisonment and/or a $1,000 fine.

Other states have taken varied approaches to this issue. Thirty states have enacted laws requiring workplace violence prevention programs, while 29 states have passed or are considering legislation allowing hospitals to establish independent police forces. Alaska has implemented mandatory minimum sentences for assault on medical professionals, and Michigan has doubled penalties for such assaults. Despite these state-level efforts, no federal law currently protects health care workers from workplace violence.

WORKERS' COMPENSATION: AN INADEQUATE RESPONSE

When nurses in Oklahoma are assaulted, the cases typically fall under workers' compensation rather than criminal prosecution. Under Oklahoma law, injured nurses receive only 70% of their average weekly wage – an amount that fails to account for shift bonuses, shift differentials between night and day shifts and compensation for credentials and patient acuity. This results in financial hardship on top of the physical and psychological trauma caused by the assault.

This stands in stark contrast to the protections afforded to other professions facing workplace violence. Police officers, firefighters, military personnel and political officials are protected by laws that make assaulting them in the line of duty a felony, with violators typically prosecuted to the fullest extent of the law. Some states have recognized this disparity. California and New York, for example, provide more robust compensation for law enforcement officers who are injured in the line of duty.

Oklahoma has recently taken steps to enhance workers' compensation for certain first responders. Beginning in 2025, S.B. 1457 provides special workers' compensation benefits for police officers, professional and volunteer firefighters and emergency medical technicians diagnosed with post-traumatic stress disorder (PTSD) connected to "responding to an emergency." The law defines the covered PTSD issues as "symptoms connected to witnessing or experiencing near-death, death, or threats to the physical integrity of others involving helplessness or horror." Benefits include up to 52 weeks of paid recovery time, medical treatment for PTSD, up to an additional $50,000 in benefits, up to $10,000 in prescription coverage and job protection. Additionally, an aspect of this law expansion requires employers to maintain health benefits when an employee is unable to return to work. Notably, nurses are excluded from these enhanced protections despite facing similar traumatic exposures in their daily work.

THE CULTURE OF ACCEPTANCE AND UNDERREPORTING

Nursing has become one of the few professions where violence is not only tolerated but expected as part of the job. This normalization sends a dangerous message that places implicit fault on nurses rather than on aggressors or the systems that fail to protect health care workers. When assaults occur and law enforcement declines to prosecute, it reinforces the perception that violence against nurses will rarely rise to a level requiring system-wide change.

Underreporting is a critical factor in the lack of effective interventions. Nurses report incidents through proper channels, but when nothing changes, they become discouraged and stop reporting altogether – a phenomenon known as learned helplessness. As one expert describes it, learned helplessness is "symbolized by battle fatigue, that moment when an issue is raised, people's eyes glaze over, and they say, 'You know what? We've had that issue forever and there is really nothing we can do about it. We just have to learn to live with it.'"[10]

Underreporting also stems from a lack of knowledge about workplace policies and uncertainty among administrators about how to pursue action against perpetrators.[11] When 80% of incidents are suspected to go unreported, the health care industry lacks the

data needed to develop effective interventions.[12] Nursing leaders have little evidence about how to mitigate the negative effects of violence against nurses.[13]

COMPREHENSIVE REFORM

Despite attempts to curb workplace violence, incidents continue to increase.[14] The problem is escalating and requires a fundamentally different approach. Comprehensive reform would address multiple dimensions:

1) Stronger enforcement of existing laws and accountability from law enforcement agencies
2) Enhanced workers' compensation benefits that adequately reflect nurses' actual wages and the traumas they experience
3) Mandatory workplace violence prevention programs with measurable outcomes
4) Improved reporting systems that ensure incidents are documented and addressed
5) Cultural change within health care institutions to eliminate the expectation that violence is simply "part of the job"
6) Collaboration among facility management, nurses, lawmakers, patients and families to establish universal standards for how nurses will be treated while caring for patients

Reimagining nurse protection would require all stakeholders to work together for meaningful change. Outstanding care requires collaboration, dedication and a willingness to rethink old assumptions.

CONCLUSION

Everyone is a consumer of health care. We all have a vested interest in taking care of the people who care for our health needs. Nurses are being assaulted at alarming rates, suffering physical injuries, psychological trauma and financial hardship as a result. While laws exist to protect them, enforcement is inconsistent at best. Workers' compensation provides inadequate support, particularly when compared to the benefits afforded to other first responders. A culture of acceptance and underreporting perpetuates the problem, leaving nursing leaders without the data needed to develop effective interventions.

ABOUT THE AUTHOR

Layla J. Dougherty brings an interdisciplinary perspective to law and health care as both an attorney and a critical care nurse. After nearly two decades of legal practice, she became a registered nurse in 2018, later completing her BSN and MSN. She serves as counsel to the Chapter 13 trustee for Oklahoma's Eastern District, teaches critical care nursing and consults nationally on matters involving elder abuse and health care fraud. She is also an advocate for workplace safety and violence prevention for nurses and other health care workers.

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Leave No Veteran Behind

By Judge Rebecca Brett Nightingale

"NO PERSON LEFT BEHIND" is a common theme for individuals serving in the U.S. armed forces. Yet when veterans find themselves entangled in the criminal justice system because of criminal charges, they find themselves in a system that is more than willing to leave them behind. Fortunately, alternative court programs are designed to keep veterans from being left behind.

Alternative courts can be traced back to the opening of the first drug court in 1989 in Dade County, Florida.[1] Alternative courts are designed to deliver justice within the criminal court system in innovative and new ways. Also known as "problem-solving courts," alternative courts are established with the goal of improving the outcomes courts can achieve for victims, litigants and communities through treatment instead of incarceration.[2] Collateral benefits are seen in families being reunited, criminal offenders being gainfully employed and, ultimately, the courts reducing prison populations, saving millions of tax dollars.

Incarceration of veterans became an epidemic following the wars in Iraq and Afghanistan and the global war on terror.[3] Predictably, these extended wars have produced a significant percentage of veterans with serious mental health and/or substance abuse issues. Service members who served their country on multiple deployments received little support upon return. Many of these veterans are now appearing in our state's criminal courts, charged with offenses tied, in one way or another, to those service-connected issues.

Approximately 30% of veterans returning home from combat suffer from "invisible wounds," which are injuries that often go unrecognized and unacknowledged.[4] These injuries include post-traumatic stress disorder, traumatic brain injury, military sexual trauma, anxiety and major depression. Of those suffering, fewer than half seek treatment. These veterans are more prone to destructive actions that bring them into conflict with the law. The most recent data from the Department of Veterans Affairs shows that each day, approximately 18 veterans die by suicide.[5] Those working in traditional drug courts found that many of the veterans they were seeing in their programs were not succeeding. Rather than leave these veterans behind, an alternative court program particularized to veterans' issues was born in Buffalo, New York.

Tulsa County was at the forefront of this solution in Oklahoma, establishing the third veterans treatment court (VTC) in the United States.[6] The first Tulsa County docket was called on Dec. 7, 2008.[7] In Tulsa County, potential VTC veterans are identified by an assistant district attorney, assistant public defender or the court. Tulsa County accepts felonies and misdemeanors into its program. Once identified, the veteran voluntarily enters VTC by pleading guilty to the charges and then participating in a post-plea/presentencing program. Upon completion of five phases, the assistant district attorney often recommends total expungement of the veteran's criminal record or a short, deferred sentence that allows for expungement after the deferred period expires.

Treatment is a key element to participation in VTC. Treatment is provided by the VA or a community provider, which is often determined by the discharge type. Tulsa County accepts any military discharge type and has served active duty and reserve personnel from the Army, Navy, Marine Corps, Air Force, Coast Guard and the Oklahoma National Guard. The importance of community safety is reflected by the requirement for veteran participants to report to a dedicated supervision officer and have random home

inspections. While in the program, the veterans are subject to random urinalysis and required to gain employment if able.

One of the crown jewels of Tulsa County VTC is the mentor program. Veteran mentors are recruited and trained to serve the veterans while they are navigating the requirements of VTC. The mentors provide fellowship, rides, support and often just a phone call to their mentee veterans. VTC participants have reported rediscovering their pride for serving in the U.S. armed forces when they connected with their mentors.

One Tulsa County VTC success story: John was a Tulsa-area Army combat engineer who deployed to Afghanistan, witnessed the calamities of war and returned stateside to bottle up the traumas he endured in his relatively short life. While still active in the National Guard, a bad decision led to a DUI for John. Tragically, this wasn't only a DUI. The charges ultimately resulted in John entering a blind plea before a district judge and being sentenced to 20 years in the Department of Corrections on charges of manslaughter. John's attorney argued for, and John was granted, a judicial review after serving three years in prison. He had no prior arrests.

While John was incarcerated, his attorney approached the VTC team to consider accepting John into the program if the judge modified John's sentence to a suspended sentence after incarceration. While drug and DUI courts in Oklahoma operate under Okla. Stat. tit. 22, §471, VTC does not. Without the constraints of a statute, VTC accepts participants into the program who would not be accepted into other alternative court programs due to objections from the state or statutory prohibition.

The VTC team agreed to take a chance on John, and four and a half years after his conviction and incarceration, John graduated from Tulsa County VTC without a single violation. Treatment reported that John was totally unaware of a diagnosis

of post-traumatic stress disorder before being ordered to treatment in VTC. John's success left a lasting impression on the program – literally. Each graduate receives a military-style "challenge coin" upon graduation from the program. These coins now feature a phrase that was John's motto for the program, which he picked up in military service, and for his life: "Always Forward."

Tulsa County VTC has graduated over 400 veterans from its program since that first docket call. Nearly 80% of the veterans who plead into the program complete it with a successful graduation. There are currently five VTC programs in the state of Oklahoma, operating in Tulsa, Oklahoma, Creek, Comanche and Canadian counties. A Tulsa County graduate, requesting to remain anonymous, who served as an officer in the Army, once said, "I would like to see a veteran's treatment court within reach of all of my soldiers in need."

Veterans treatment courts are designed to leave no person behind. The justice system is not. Are you willing to go the extra mile to help a veteran who was willing to lay down their life defending our freedoms? If you are interested in starting a veterans treatment program in your area, please reach out to Tammy Westcott with the Oklahoma Department of Mental Health and Substance Abuse Services.[8] Leave no veteran behind.

ABOUT THE AUTHOR

District Judge Rebecca Brett Nightingale serves as the supervising district judge for alternative courts in Tulsa County, and she presides over the Tulsa County Veterans Treatment Court.

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Meet the Ninth Class of the OBA Leadership Academy

The Ninth Class of the OBA Leadership Academy began in January. Its 16 members were selected for their demonstrated commitment to the legal profession and community impact. Congratulations to these program participants who are preparing to become the next generation of bar association leaders.

Afiya Wilkins, Oklahoma City

Oklahoma Department of Environmental Quality, Water Quality Division

Afiya Wilkins is an environmental law attorney with the Water Quality Division of the Oklahoma Department of Environmental Quality. As a DEQ environmental attorney, she provides legal counsel, assists with rulemaking and enforcement proceedings and tracks federal regulations.

Ms. Wilkins is a graduate of the University of Notre Dame, the University of South Carolina and Vermont Law and Graduate School, where she received her master's degree in environmental law and policy. She started her career in Washington, D.C., interning at the U.S. Environmental Protection Agency and then working at a small regional law firm in its D.C.-based energy practice office.

She returned to Oklahoma with a focus on consulting with community-based organizations on sustainable policies and practices that integrate social, economic and environmental concerns. In addition to her work with the DEQ, Ms. Wilkins also works with local nonprofits on activities related to environmental justice and community development, is active in water industry organizations and serves as a board member for Infant Crisis Services. She also contributes her talents as a member of the Oklahoma State Advisory Committee to the U.S. Commission on Civil Rights.

Alexandra King, Tulsa

Hall Estill

Alexandra King is an associate in Hall Estill's litigation practice. During law school, she held leadership roles in the Business Law Society and the Women's Law Caucus, and she served as the business manager of the *Tulsa Law Review*. Ms. King also completed a judicial externship with Judge Christine D. Little. Prior to law school, she was a member of the women's soccer team at Trinity University.

Alyssa Sloan, Oklahoma City

Crowe & Dunlevy PC

Alyssa Sloan is an associate in the Oklahoma City office of Crowe & Dunlevy, assisting clients as a member of the Energy, Environment & Natural Resources and Litigation & Trial practice groups. She frequently advises clients on regulatory matters before state and federal agencies, including the Oklahoma Department of Environmental Quality, the Oklahoma Water Resources Board and the Environmental Protection Agency. Her practice also focuses on litigation of complex commercial disputes in both state and federal courts. In recognition of her achievements, Ms. Sloan was a 2024 NextGen Under 30 award recipient. She serves as a board member for Dress for Success Oklahoma City and secretary of the OBA Environmental Law Section.

She graduated from the OU College of Law in 2023, where she served as president of the Ada Lois Sipuel Fisher Chapter of the Black Law Students Association, co-president of the American Constitution Society and articles editor of the *Oil and Gas, Natural Resources, and Energy Journal*. During law school, she received several honors, including the OBA Energy and Natural Resources Law Section Award, the OBA Environmental Law Section Award, the OU AFAMPS Legacy Builder Award for Outstanding Graduate Student and American Jurisprudence awards in oil and gas environmental law and environmental law. Additionally, she was selected into the Order of the Barristers, Phi Delta Phi and the dean's honor roll.

Active in moot court, Ms. Sloan competed in the National Black Law Students Association Thurgood Marshall Moot Court Competition. In 2022, she received the Regional Best Petitioner Brief Award and the Judge Wayne Alley Advocacy Writing Award. In 2023, her team received third place at nationals, and she received the Best Petitioner Speaker Award.

AUSTIN MANLEY, YUKON

Manley Legal Services LLC

Austin Manley is the lead attorney and founder of Manley Legal Services LLC in Yukon. His primary areas of practice are corporate law, health care law, election law and administrative law, as well as others. Mr. Manley received his J.D. and certificate of business law from the OCU School of Law.

BAILEY MALONE WARREN, NORMAN

Office of the Attorney General

Bailey Malone Warren serves as an assistant attorney general for the state of Oklahoma, where she acts as general counsel and administrative law judge for multiple state agencies. She joined the office of the attorney general in August 2022.

Ms. Warren earned her bachelor's degree in marketing from OU and her J.D. from the OCU School of Law. She began her legal career as a public defender in Oklahoma County before transitioning to a local nonprofit, where she worked in case management and later developed and supervised a court diversion program.

Outside of her professional work, she enjoys spending time with family and friends and cheering on OU athletics and the Oklahoma City Thunder.

HILDA LOURY, NORMAN

Phillips Murrah PC

Hilda Loury is a litigation attorney at Phillips Murrah PC, where she represents both individuals and privately held and public companies in a wide range of civil litigation matters in state and federal courts. Her practice concentrates on complex commercial litigation, contractual disputes, commercial debt collection matters, business defense and insurance defense.

Ms. Loury is a member of the William J. Holloway American Inn of Court and serves on the Board of Directors of the Oklahoma County Bar Association Young Lawyers Division, where she fundraises annually for the Regional Food Bank of Oklahoma. During law

school, she served as a judicial extern for Oklahoma County District Court Judge C. Brent Dishman and as an advisor to the chairperson of the United Nations Committee on the Elimination of Racial Discrimination in Geneva, Switzerland. Her comment on environmental law was also published in the *American Indian Law Review*. Prior to law school, she was a lecturer in the philosophy departments of two California colleges and the associate director of an interdisciplinary summer institute in St. Andrews, Scotland. She is bilingual in English and Persian.

JOEL AURINGER, TULSA

Legal Aid Services of Oklahoma Inc.

Joel Auringer is a staff attorney in the Tulsa office of Legal Aid Services of Oklahoma Inc., where he provides eviction defense services and prosecutes landlord-tenant and housing discrimination litigation. He joined the OBA in 2021. Prior to practicing law, Mr. Auringer was a private music teacher. He holds multiple degrees in music and received his J.D. from the TU College of Law. He is from Double Oak, Texas, and resides in Tulsa with his lovely wife, quirky small dog and rambunctious orange cat.

JOSH PUMPHREY, SHAWNEE

Stuart & Clover

Josh Pumphrey became a first-year associate attorney at Stuart & Clover in Shawnee after graduating from the OU College of Law in May 2025 and passing the bar that summer. While at OU, he was awarded the American Jurisprudence Award in AI and the Practice of Law and was involved in the Christian Legal Society, the First Generation Law Students Association and the A*merican Indian Law Review*. As a member of the *American Indian Law Review*, Mr. Pumphrey served as an assistant executive editor and had his work selected by the members of the journal to be published in the spring 2025 edition. Mr. Pumphrey practices in many different areas of the law, including general civil litigation, appellate law, municipal law and collections. He is excited to grow in his experience as a young lawyer through his participation in the OBA Leadership Academy.

KATIE LINHARDT, NICHOLS HILLS

Office of the Attorney General

Katie Linhardt works at the Oklahoma attorney general's office as an assistant attorney general in the Litigation Unit and on the litigation writing and editing review team. Prior to working for the attorney general, she served as a staff attorney at the Oklahoma Supreme Court for Justice Richard Darby.

Ms. Linhardt was team captain on the Hispanic National Bar Association Moot Court, where she received second place for best speaker award and was an elite eight national finalist. She was involved in the Order of Solicitors, the OU Law Dean's Leadership Fellows, the OU Criminal Defense Clinic and the Federal Bar Association.

She graduated from the University of Texas at Austin with a master's degree in social work, *summa cum laude,* in 2015 and from Southern Methodist University with a bachelor's degree in sociology in 2010, *cum laude.*

LIZ STEVENS, NORMAN

Office of the Attorney General

Liz Stevens was born and raised in Norman. She received her bachelor's degree in history from OU. Before attending law school, she spent several years teaching English as a second language in Russia and Rwanda.

Ms. Stevens attended the OU College of Law, where she served as an editor of the *American Indian Law Review*. While pursuing her J.D., she was a judicial intern for Oklahoma Supreme Court Justice Noma D. Gurich, as well as an intern for the Committee on the Elimination of Racial Discrimination at the United Nations. She graduated from law school in 2019.

She currently works for the office of the attorney general in the Legal Counsel Unit. She is also the District 5 director for the Young Lawyers Division Board of Directors and a board member on the Lawyers Helping Lawyers Foundation. In her spare time, she enjoys traveling, reading historical fiction books and playing with her dog, Bear.

MACKENZIE KENNEDY, OKLAHOMA CITY

Rhodes Hieronymus Jones Tucker & Gable PLLC

Mackenzie Kennedy is an Oklahoma City-based attorney originally from Edmond. She earned her bachelor's degree *cum laude* from the University of Arkansas, majoring in political science and sociology, and received her J.D. from the OCU School of Law, where she was a member of the Order of the Barristers.

Ms. Kennedy's practice includes administrative enforcement proceedings, professional liability defense, labor and employment matters and personal injury litigation. Before entering private practice, she clerked with the U.S. Attorney's Office for the Western District of Oklahoma and interned (and later practiced) at the Oklahoma attorney general's office, experiences that shaped her interest in regulatory and litigation work.

She lives in Oklahoma City with her husband, Mark, and their two Labrador retrievers, Rory and Kirby.

MATT KIEHN, OKLAHOMA CITY

Kiehn | Sanchez

Matt Kiehn is a co-managing partner at Kiehn | Sanchez, licensed to practice in Oklahoma, Texas and before the United States Tax Court. His practice focuses on cannabis law, business and transactional matters, estate planning and civil litigation. Mr. Kiehn earned his J.D. from the St. Mary's University School of Law in San Antonio, where he served as president of the St. Mary's chapter of the Animal Legal Defense Fund and competed as a brief writer on the national moot court team. He is a member of the OBA Animal Law, Business and Corporate Law, and Estate Planning, Probate and Trust sections. Outside of practice, he enjoys spending time with his family and many pets, as well as traveling throughout the U.S. and internationally.

MAXFIELD MALONE, TULSA

Pray Walker

Maxfield Malone practices at Pray Walker. He previously served as an assistant district attorney in the Tulsa County district attorney's office, where he worked in the juvenile and criminal divisions. While at the district attorney's office, Mr. Malone joined the Special Victims Unit and prosecuted cases involving sex crimes, aggravated domestic violence and domestic homicide. He graduated from the OU College of Law, where he was active in the Student Bar Association and a case editor for the *Oil and Gas, Natural Resources, and Energy Journal.*

MITCHELL WELLS, TULSA

JPM Law

Mitchell Wells has practiced law in Tulsa County since graduating from the OU College of Law in 2020. During the first four years of his career, he served as a prosecutor in Tulsa County in the Domestic Violence, Organized Crime and Special Victims units. Now, as a second-year associate with JPM Law, Mr. Wells' practice area is primarily focused on insurance defense, business disputes and criminal defense.

MORGAN W. SMITH, OKLAHOMA CITY

The Rudnicki Firm

Morgan W. Smith is an associate attorney at The Rudnicki Firm, where she practices oil and gas, civil litigation and insurance defense. She is licensed in Oklahoma and Texas.

Ms. Smith earned her bachelor's degree in economics and international studies from OU, where she served as president of the 2019 Class Council and chaired the Student Government Association Human Diversity Committee. At the TU College of Law, she served as speaker of the House for the Student Bar Association and clerked for Oklahoma Supreme Court Justice Dana Kuehn before graduating with highest honors.

SAVANNAH MENDENHALL, TULSA

Tulsa Lawyers for Children

Savannah Mendenhall is the legal services director at Tulsa Lawyers for Children, where she dedicates her practice to advocating for children and families in crisis. She serves as a court-appointed guardian *ad litem* in high-conflict custody, guardianship and paternity matters, working to ensure that the best interests of children remain at the center of every case. Ms. Mendenhall is a nationally certified mediator and a qualified domestic violence expert, bringing extensive experience in family law, deprived cases and child-focused litigation, including representing abused and neglected children in juvenile proceedings.

Beyond her courtroom work, Ms. Mendenhall is committed to building programs that expand access to justice and strengthen family stability. She is passionate about elevating child advocacy across Oklahoma and equipping attorneys with practical, real-world tools to better serve vulnerable children.

She earned her undergraduate degree from OSU and her J.D. from the TU College of Law. She lives in Tulsa with her family.

THIRD ANNUAL

Oklahoma Chief Justice Colloquium
On Civility and Ethics

WEDNESDAY APRIL 1

1:30 P.M. TO 3 P.M.

OKLAHOMA JUDICIAL CENTER AUDITORIUM
2100 N. LINCOLN BLVD., OKLAHOMA CITY

GUEST SPEAKERS

SENATOR JAMES LANKFORD
UNITED STATES SENATE

MICHAEL C. TURPEN
FORMER OKLAHOMA ATTORNEY GENERAL

The Oklahoma Supreme Court invites you to attend the third annual Oklahoma Chief Justice Colloquium on Civility and Ethics. This year's guest speakers are Sen. James Lankford, who has represented Oklahoma in the United States Senate since 2015, and former Oklahoma Attorney General Michael C. Turpen.

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2026 DAY AT THE CAPITOL

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Learn more about the legislative process, and speak with Oklahoma lawmakers on topics that impact your practice.

MARCH 10
9 a.m. - 3 p.m.
Oklahoma Bar Center

VOLUNTEER LAWYERS NEEDED!

Law Day 2026 • Friday, May 1

ASK A LAWYER

STATEWIDE FREE LEGAL ADVICE

Phone banks are located at the Oklahoma Bar Center in Oklahoma City, the Tulsa County Bar Association and local lawyers' offices in nonmetro counties. Volunteers who can answer questions by email and who speak Spanish are also needed.

Oklahoma City:
Christi Chandler
405-236-8421
office@okcbar.org

Tulsa:
Mary Clement
918-805-2352
mary@clementlegalok.com

Other Counties:
Contact your Law Day chairperson for details. See the list of chairs at www.okbar.org/lawday.

Professional Responsibility Commission Annual Report

As Compiled by the OBA Office of the General Counsel
Jan. 1, 2025 – Dec. 31, 2025 | SCBD 8067

PURSUANT TO THE PROVISIONS OF RULE 14.1, Rules Governing Disciplinary Proceedings (RGDP), 5 O.S. 2021, ch. 1, app. 1-A, the following is the Annual Report of grievances and complaints received and processed for 2025 by the Professional Responsibility Commission and the Office of the General Counsel of the Oklahoma Bar Association.

THE PROFESSIONAL RESPONSIBILITY COMMISSION

The Professional Responsibility Commission is composed of seven persons – five lawyers and two non-lawyers. The lawyer members are nominated by the President of the Oklahoma Bar Association, subject to the approval of the Board of Governors. The two non-lawyer members are appointed by the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the Oklahoma Senate, respectively. Members serve for a term of three years with a maximum of two terms. Terms expire on December 31st at the conclusion of the three-year term.

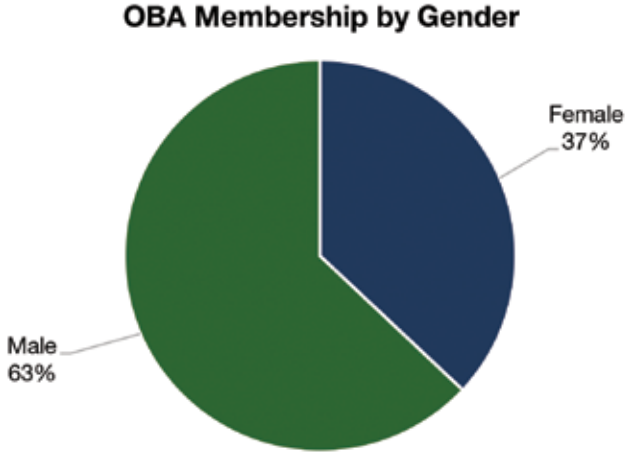
Lawyer members serving on the Commission all or part of 2025 were Chairperson Matthew C. Beese, Broken Arrow; Vice-Chairperson Jennifer Castillo, Oklahoma City; Alissa Preble Hutter, Norman; Robin Rochelle, Lawton; and Molly Aspan, Tulsa. The Non-Lawyer member was James W. Chappel, Norman. There was one non-lawyer term vacant during 2025. Commission members serve without compensation but are reimbursed for actual travel expenses.

RESPONSIBILITIES

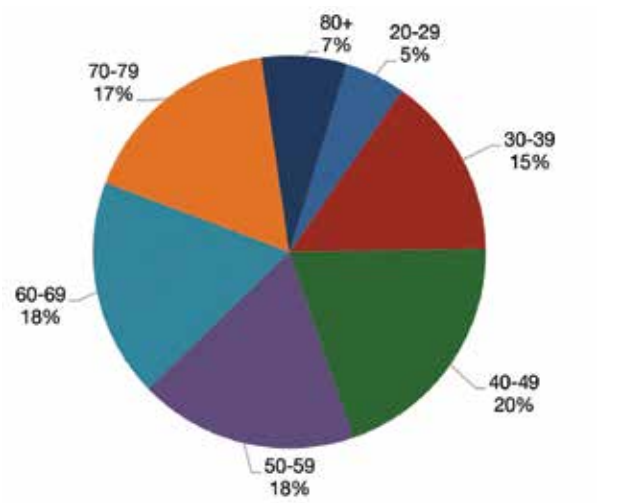
The Professional Responsibility Commission considers and investigates any alleged ground for discipline, or alleged incapacity, of any lawyer called to its attention, or upon its own motion, and takes such action as deemed appropriate to effectuate the purposes of the Rules Governing Disciplinary Proceedings. Under the supervision of the Commission, the Office of the General Counsel investigates all matters involving alleged misconduct or incapacity of any lawyer called to the attention of the General Counsel by grievance or otherwise, and reports to the Commission the results of investigations made by or at the direction of the General Counsel. The Commission then determines the disposition of grievances or directs the instituting of a formal complaint for alleged misconduct or personal incapacity of a lawyer. The Office of the General Counsel prosecutes all proceedings under the Rules Governing Disciplinary Proceedings, supervises the investigative process, and represents the Oklahoma Bar Association in all reinstatement proceedings.

OBA MEMBERSHIP STATISTICS

Total membership of the Oklahoma Bar Association as of December 31, 2025, was 19,064 attorneys. The total number of members included 12,036 males and 7,028 females.



OBA Membership by Age



VOLUME OF GRIEVANCES

During 2025, the Office of the General Counsel received 198 formal grievances involving 139 lawyers and 933 informal grievances involving 745 lawyers. In total, 1,131 grievances were received against 844 lawyers. The total number of grievances and lawyers receiving same differs because some lawyers received multiple grievances. In addition, the Office of the General Counsel processed 175 items of general correspondence, which is mail not considered to be a grievance against a lawyer.

On January 1, 2025, 171 formal grievances were carried over from the previous year. The carryover accounted for a total caseload of 369 formal investigations pending throughout 2025. Of those grievances, 128 investigations were completed by the Office of the General Counsel and presented for review to the Professional Responsibility Commission. Therefore, 241 formal grievances remained pending as of December 31, 2025.

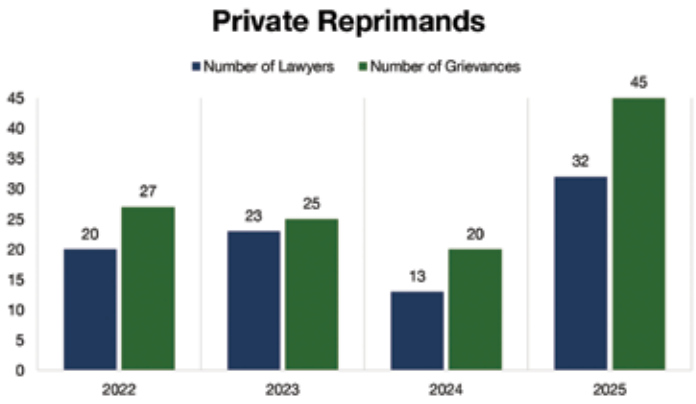
The time required for investigating and concluding each grievance varies depending on the seriousness and complexity of the allegations and the availability of witnesses and documents. The Commission requires the Office of the General Counsel to report monthly on all informal and formal grievances received and all investigations completed and ready for disposition by the Commission. In addition, the Commission receives a monthly statistical report on the pending caseload. The Board of Governors is advised statistically each month of the actions taken by the Commission.

Total Grievances Received

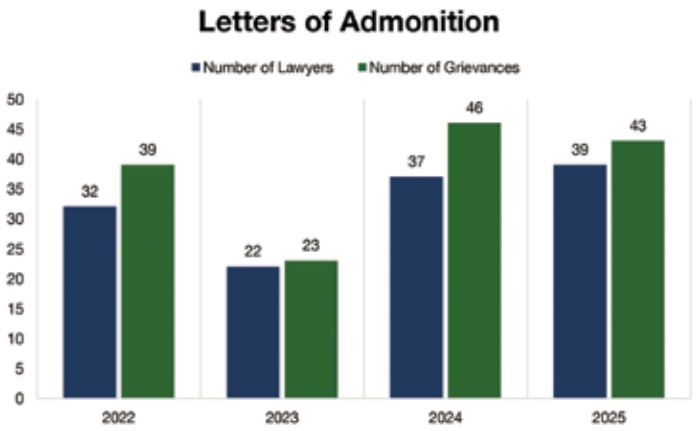
DISCIPLINE IMPOSED BY THE PROFESSIONAL RESPONSIBILITY COMMISSION

Formal Charges. During 2025, the Professional Responsibility Commission voted the filing of formal disciplinary charges against 8 lawyers involving 23 formal grievances. In addition, the Commission also oversaw the investigation of 11 Rule 7, RGDP formal disciplinary charges filed with the Chief Justice of the Oklahoma Supreme Court.

Private Reprimands. Pursuant to Rule 5.3(c), RGDP, the Professional Responsibility Commission has the authority to impose private reprimands, with the consent of the lawyer, in matters of less serious misconduct or if mitigating factors reduce the sanction to be imposed. During 2025, the Commission administered private reprimands to 32 lawyers involving 45 formal grievances.



Letters of Admonition. During 2025, the Professional Responsibility Commission voted to issue letters of admonition to 39 lawyers involving 43 formal grievances, cautioning that the conduct of the lawyer was dangerously close to a violation of a disciplinary rule.



Dismissals. The Professional Responsibility Commission dismissed 61 formal grievances that had been received but not concluded due to the resignation pending disciplinary proceedings of the respondent lawyer, a continuing lengthy suspension of the respondent lawyer, death of the respondent lawyer, or disbarment of the respondent lawyer. Additional formal grievances were dismissed after the investigation confirmed that the allegation could not be substantiated by clear and convincing evidence.

Diversion Program. The Professional Responsibility Commission may also refer respondent lawyers to the Discipline Diversion Program where remedial measures are taken to ensure that any deficiency in the representation of a client does not reoccur in the future. During 2025, the Commission referred 28 lawyers to the Discipline Diversion Program for conduct involving 53 grievances.

The Discipline Diversion Program is tailored to the individual circumstances of the participating lawyer and the misconduct alleged. Oversight of the program is by the OBA Ethics Counsel with the OBA Management Assistance Program staff involved in programming. Program options include Trust Account School, Professional Responsibility/Ethics School, Law Office Management Training, Communication and Client Relationship Skills, and Professionalism in the Practice of Law. In 2025, instructional courses were taught by OBA Assistant General Counsels Katherine Ogden and Tracy Pierce Nester, OBA Management Assistance Program Director Julie Bays, and OBA Ethics Counsel Richard Stevens.

As a result of the Trust Account Overdraft Reporting Notifications, the Office of the General Counsel is able to monitor when lawyers encounter difficulty with management of their IOLTA accounts. Upon recommendation of the Office of the General Counsel, the Commission may place those individuals in a tailored program designed to instruct on basic trust accounting procedures. This course is also available to the OBA general membership as a continuing legal education course. Through a new member benefit, all OBA members may receive free access to a comprehensive trust accounting and billing software program tailored to solo practitioners and small law firms.

2025 Lawyer Participation in Diversion Program Curriculum	
Diversion Program Curriculum	Number of Lawyers
Communication and Client Relationship Skills	14
Professionalism in the Practice of Law	11
Professional Responsibility/Ethics School	7
Client Trust Account School	8
Law Office Consultations	3
Law Office Management	6
Lawyers Helping Lawyers Consultation	3
Ethics Counsel Consultation	1

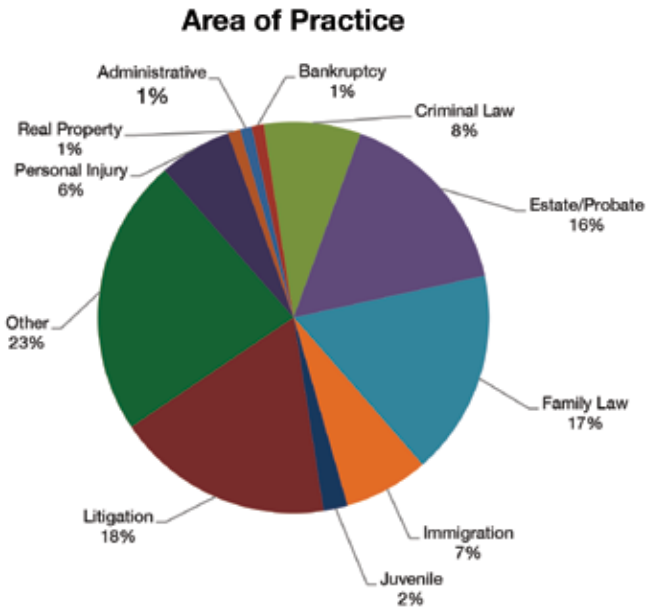
SURVEY OF GRIEVANCES

To better inform the Oklahoma Supreme Court, the bar, and the public of the nature of the grievances received, the number of lawyers receiving grievances, and the practice areas of misconduct involved, the following information is presented.

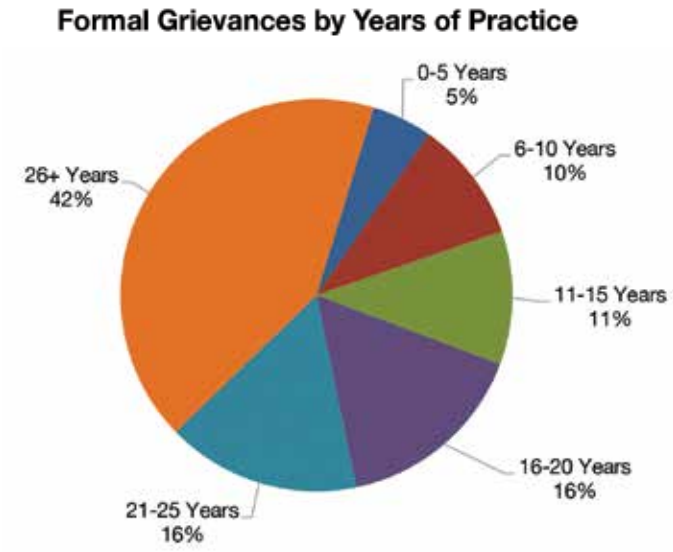
Formal and informal grievances were received against 884 lawyers. Therefore, fewer than five percent of the lawyers licensed to practice law in Oklahoma received a grievance in 2025.

A breakdown of the types of misconduct alleged in the 198 formal grievances opened by the Office of the General Counsel in 2025 is as follows:

Of the 198 formal grievances, the area of practice is as follows:



The number of years in practice of the 139 lawyers receiving formal grievances is as follows:



The largest number of grievances received were against lawyers who have been in practice for 26 years or more.

DISCIPLINE IMPOSED BY THE OKLAHOMA SUPREME COURT

In 2025, discipline was imposed by the Oklahoma Supreme Court in 23 disciplinary cases. The sanctions are as follows:

Disbarment

Respondent	Order Date
James Albert Conrady	10/14/2025
Ronald Edward Durbin	10/21/2025

Resignations Pending Disciplinary Proceedings Approved by Court
(Tantamount to Disbarment)

Respondent	Order Date
Logan Michael Jones	01/13/2025
Andrea Beth Fryar	02/10/2025
Jessica Lyn Brown	09/08/2025
Wesley Blake Hulse	09/15/2025
Kassie Nicole McCoy	09/29/2025
Tracy S. Zahl	10/06/2025
Brian Lovell	10/06/2025
Kelsey Alison Baldwin	12/08/2025
Charles Brady Morris	12/15/2025

Disciplinary Suspensions

Respondent	Length	Order Date
Isaac Shields	6 Months	03/25/2025
Mosemarie Boyd	6 Months	04/29/2025
Ledger Wade Newman	Interim	06/30/2025
James Albert Conrady	Interim	07/30/2025
Ryan Alexander Keith	Interim	09/08/2025
Cassity B. Gies	6 Months	09/23/2025
David Phillip Spielman	Interim	12/15/2025

Confidential Discipline

Respondent	Type	Order Date
	Private Reprimand	04/07/2025
	Private Reprimand	10/20/2025

Rule 7, RGDP Dismissals

Respondent	Order Date
Toni Himes Capra	10/27/2025
Kylie Danielle Ray	09/08/2025
Julia Allen	09/08/2025

There were 11 discipline cases filed with the Oklahoma Supreme Court as of January 1, 2025. During 2025, 21 new formal complaints were filed for a total of 32 cases before the Oklahoma Supreme Court during 2025. On December 31, 2025, 11 cases remained open before the Oklahoma Supreme Court.

Type of Discipline Imposed	Disbarment	RPDP	Disciplinary Suspension	Confidential Suspension	Public Censure	Dismissals
Number of Attorneys Involved	2	9	7	2	0	3
Age of Attorney						
21-29 years old	0	0	0	0	0	0
30-49 years old	1	6	4	2	0	1
50-74 years old	0	3	2	0	0	2
75 or more years old	1	0	1	0	0	0

REINSTATEMENTS

On January 1, 2025, there were three Petitions for Reinstatement pending before the Professional Responsibility Tribunal and one Petition for Reinstatement pending with the Oklahoma Supreme Court. There were five new Petitions for Reinstatement filed in 2025. In 2025, the Oklahoma Supreme Court granted two reinstatements, denied three reinstatements, and dismissed two Petitions for Reinstatement. On December 31, 2025, there were two Petitions for Reinstatement pending before the Professional Responsibility Tribunal and two Petitions for Reinstatement pending before the Oklahoma Supreme Court.

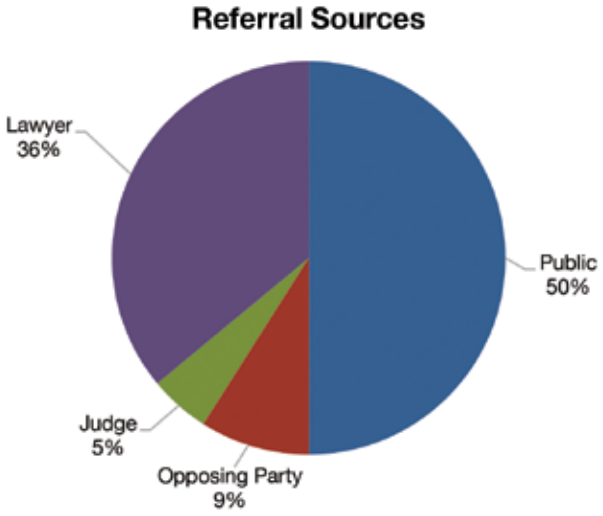
UNAUTHORIZED PRACTICE OF LAW

Rule 5.1(b), RGDP, authorizes the Office of the General Counsel to investigate allegations of the unauthorized practice of law (UPL) by non-lawyers, suspended lawyers and disbarred lawyers. Rule 5.5, ORPC, regulates the unauthorized practice of law by lawyers and prohibits lawyers from assisting others in doing so.

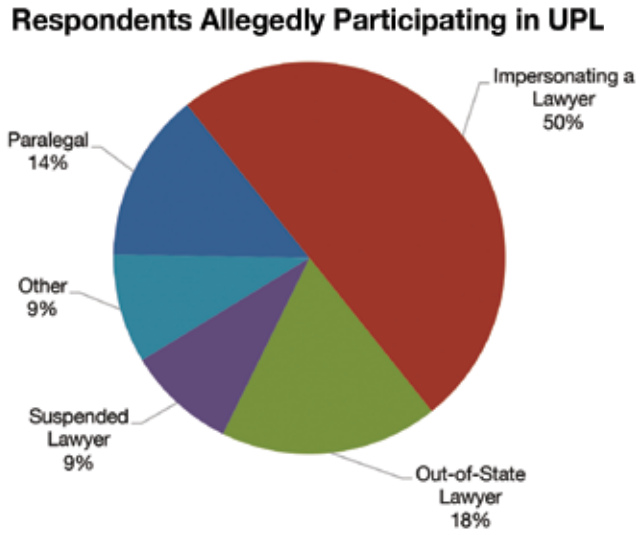
Requests for Investigation. In 2025, the Office of the General Counsel received 22 requests for investigation of the unauthorized practice of law. The Office of the General Counsel fielded many additional inquiries regarding the unauthorized practice of law that are not reflected in this summary.

Practice Areas. Allegations of the unauthorized practice of law encompass various areas of law. In previous years, most unauthorized practice of law complaints involved non-lawyers or paralegals handling family law matters. However, in 2024 and 2025, UPL complaints involving litigation matters exceeded the other categories.

Referral Sources. Requests for investigations of the unauthorized practice of law come from multiple sources. In 2025, the Office of the General Counsel received more than 40% of UPL complaints from judges and licensed lawyers.



Respondents. In 2025, most requests for investigation into allegations of the unauthorized practice of law complained about non-lawyers holding themselves out as having specific training in the law.

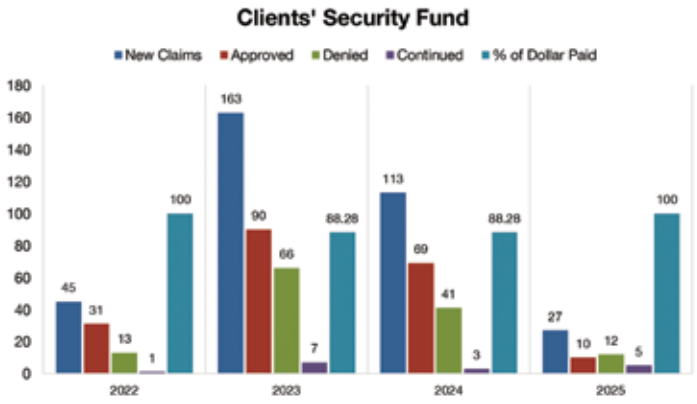


Enforcement. In 2025, the Office of the General Counsel took formal action in eight matters. Formal action included issuing cease and desist letters, initiating formal investigations through the lawyer discipline process, referring a case to an appropriate state and/or federal enforcement agency, or filing the appropriate district court action. Ten matters were closed after corrective action was taken, and the remainder of the matters remain under investigation.

CLIENTS' SECURITY FUND

The Clients' Security Fund was established in 1965 by Court Rules of the Oklahoma Supreme Court. The Fund is administered by the Clients' Security Fund Committee, which is comprised of 14 lawyer members and 3 non-lawyer members. The Committee members are appointed in staggered three-year terms by the OBA President with approval from the Board of Governors. In 2025, the Committee was chaired by lawyer member Micheal Salem, Norman. Chairman Salem has served as Chair for the Clients' Security Fund Committee since 2006. The Fund furnishes a means of reimbursement to clients for financial losses occasioned by dishonest acts of lawyers. It is also intended to protect the reputation of lawyers in general from the consequences of dishonest acts of a very few. The Board of Governors budgets and appropriates $175,000.00 each year to the Clients' Security Fund for payment of approved claims.

In years when the approved amount exceeds the appropriated amount, the amount approved for each claimant will be reduced in proportion on a pro rata basis until the total amount paid for all claims in that year is $175,000.00. The Office of the General Counsel reviews, investigates, and presents the claims to the committee. In 2025, the Office of the General Counsel presented 27 claims to the Committee. The Committee approved 10 claims, denied 12 claims, and continued five claims into the following year for further investigation. In 2025, the Clients' Security Fund paid a total of $146,845.00 on 10 approved claims.



CIVIL ACTIONS (NON-DISCIPLINE) INVOLVING THE OBA

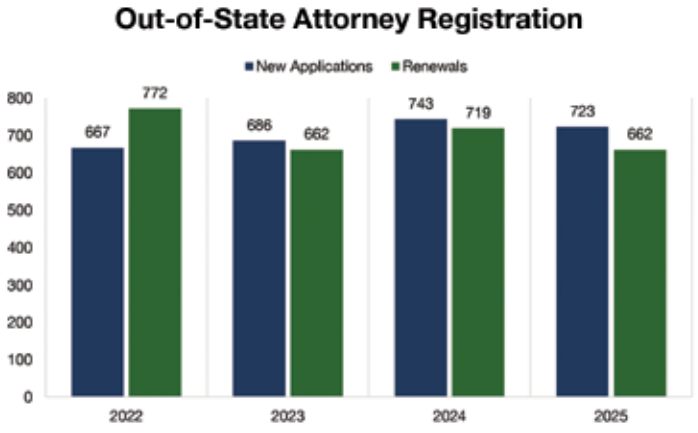
The Office of the General Counsel represented the Oklahoma Bar Association in several civil (non-discipline) matters during 2025. Several cases carried forward into 2026. The following is a summary of all 2025 civil actions against or involving the Oklahoma Bar Association:

- *Winningham v. Gina L. Hendryx*, Oklahoma County Case No. CJ-2023-3789. On July 7, 2023, Plaintiff filed an action for declaratory relief. The Oklahoma Bar Association moved to dismiss the matter. After hearing argument, this matter was dismissed on November 2, 2023. Winningham has since filed post-trial motions, and the Oklahoma Bar Association has responded. On July 15, 2025, the Court dismissed the matter for failure to prosecute.
- *BlueviewTam Farm, LLC, et al., v. Jones Brown, et al.*, Tulsa County Case No. CJ-2023-3033. Ronald Durbin filed a class action suit on behalf of multiple plaintiffs alleging a variety of causes of actions against the Oklahoma Bar Association and two staff members. The Oklahoma Bar Association defendants have not been served. On June 27, 2025, this matter was dismissed for failure to obtain service within 200 days.
- *Durbin v. Oklahoma Bar Association, et al.*, United States District Court for the Northern District of Oklahoma, Case No. CIV-24-603. On December 12, 2024, Plaintiff filed a 326-page Complaint against the Oklahoma Bar Association and in excess of 90 other defendants. This matter was dismissed on January 23, 2025.
- *Lowery et al. v. OBA et al.*, Oklahoma Supreme Court Case No. MA-122831. Plaintiffs filed Writ of Mandamus and Prohibition and Application for Restraining Order on January 31, 2025. Per the Court's Order, the OBA declined to respond. Plaintiffs' relief was denied on March 31, 2025.
- *Trupia v. John Roberts, et al.*, United States District Court for the Western District of Oklahoma, Case No. CIV-25-621. Plaintiff filed a Complaint against Miles Pringle in his capacity as Oklahoma Bar Association President, United States Supreme Court Chief Justice John Roberts, and William Bay, President of the American Bar Association. Plaintiff sought to have all Oklahoma Bar Association members certified as a defendant class for purposes of prosecuting a class action against them. The OBA filed a motion to dismiss. The Court dismissed the matter on September 30, 2025.
- *Trupia v. John Roberts, et al.*, United States Court of Appeals for the Tenth Circuit, Case No. 25-6172. Plaintiff appealed the dismissal of his case in CIV-25-621. This appeal is pending, with briefing due February 12, 2026.
- *Stephens v. State of Oklahoma, et al.*, United States District Court for the Northern District of Oklahoma, Case No. 25-cv-00322-SHE-SH. Plaintiff filed a Complaint against multiple defendants on June 26, 2025. The OBA filed a motion to dismiss the matter. This case is pending.
- *Durbin v. OBA, et al.*, United States District Court for the Northern District of Oklahoma, Case No. 25-cv-00393-GKF-JFJ (Durbin II). Plaintiff filed a Complaint against multiple defendants on July 28, 2025. This case is pending.
- *Eisenberg v. OBA,* Oklahoma Supreme Court Case No. 123520. Petitioner filed for a Writ of Mandamus and served the OBA with same on October 27, 2025. The OBA filed its response on November 13, 2025. The Supreme Court treated Petitioner's Writ as an Application to Assume Original Jurisdiction and denied Petitioner relief on November 24, 2025. Petitioner filed a Request for Clarification on November 25, 2025.
- *McKee v. DHS Payne County Director, et al.*, United States District Court for the Western District of Oklahoma, Case No. CIV-25-1353. The OBA filed a motion to dismiss the matter. This case is pending.
- *Jones v. State of Oklahoma, et al.*, United States District Court for the Western District of Oklahoma, Case No. CIV-25-1383. Plaintiff filed suit against multiple defendants. The Court *sua sponte* dismissed the Complaint and Amended Complaint on January 12, 2026. The OBA was not named a defendant in the Second Amended Complaint.
- *McKee v. Honorable Susan Worthington, et al.*, Oklahoma Supreme Court Case No. MA-123567. Petitioner filed a Petition for Writ of Mandamus and Application to Assume Original Jurisdiction on November 20, 2025, stemming from a juvenile deprived action. The OBA is named as a Respondent. On January 12, 2025, the Oklahoma Supreme Court dismissed the proceeding.
- *Lutnes v. Honorable Susan Worthington, et al.*, Oklahoma Supreme Court Case No. MA-123568. Petitioner filed a Petition for Writ of Mandamus and Application to Assume Original Jurisdiction on November 20, 2025, stemming from a juvenile deprived action. The OBA is named as a Respondent. On January 12, 2025, the Oklahoma Supreme Court dismissed the proceeding.

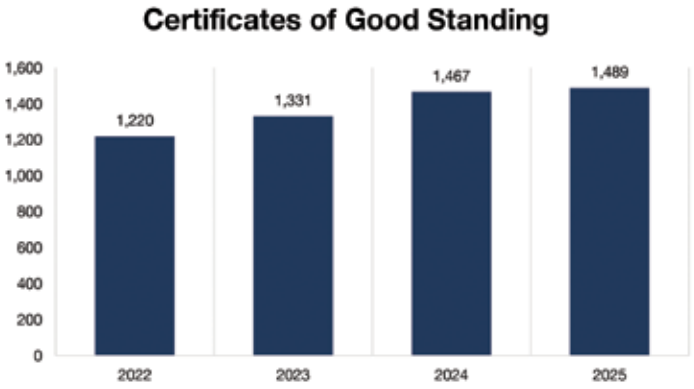
- *Roberts v. Worthington, et al.*, United States District Court for the Northern District of Texas, 7:25-cv-129-O-BP. Plaintiff filed a Complaint against the OKC County Bar but served the OBA. The OBA filed a motion to dismiss. The matter is pending and subject to transfer to the Western District of Oklahoma.

ATTORNEY SUPPORT SERVICES

Out-of-State Attorney Registration. In 2025, the Office of the General Counsel processed 723 new applications and 662 renewal applications submitted by out-of-state attorneys registering to participate in a proceeding before an Oklahoma Court or Tribunal. Out-of-State attorneys appearing pro bono to represent criminal indigent defendants, or on behalf of persons who otherwise would qualify for representation under the guidelines of the Legal Services Corporation due to their incomes, may request a waiver of the application fee from the Oklahoma Bar Association. Certificates of Compliance are issued after confirmation of the application information, the applicant's good standing in his/her licensing jurisdiction and payment of applicable fees. All obtained and verified information is submitted to the Oklahoma Court or Tribunal as an exhibit to a "Motion to Associate."



Certificates of Good Standing. In 2025, the Office of the General Counsel prepared 1,489 Certificates of Good Standing/Disciplinary History at the request of Oklahoma Bar Association members.

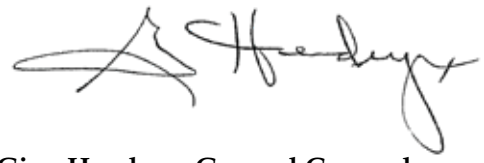


ETHICS AND EDUCATION

During 2025, lawyers in the General Counsel's office presented in excess of 40 hours of continuing legal education programs to county bar association meetings, lawyer practice groups, OBA programs, all three state law schools, and various legal organizations. In these sessions, disciplinary and investigative procedures, case law, and ethical standards within the profession were discussed. These efforts direct lawyers to a better understanding of their ethical requirements and the disciplinary process and informs the public of the efforts of the Oklahoma Bar Association to regulate the conduct of its members. The Office of the General Counsel worked with lawyer groups to assist with presentation of programming via in-person presentations and videoconferencing platforms.

The lawyers, investigators, and support staff of the General Counsel's office also attended continuing education programs in an effort to increase their own skills and knowledge in attorney discipline. These included trainings by the Oklahoma Bar Association (OBA), the National Organization of Bar Counsel (NOBC), and the Organization of Bar Investigators (OBI).

RESPECTFULLY SUBMITTED this 6th day of February, 2026, on behalf of the Professional Responsibility Commission and the Office of the General Counsel of the Oklahoma Bar Association.



Gina Hendryx, General Counsel
Oklahoma Bar Association

Professional Responsibility Tribunal Annual Report

Jan. 1, 2025 – Dec. 31, 2025 | SCBD 8066

THE PROFESSIONAL RESPONSIBILITY TRIBUNAL was established by order of the Supreme Court of Oklahoma in 1981, under the Rules Governing Disciplinary Proceedings ("RGDP"), 5 O.S. 2021, ch. 1, app. 1-A. The primary function of the PRT is to conduct hearings on complaints filed against lawyers in formal disciplinary and personal incapacity proceedings, and on petitions for reinstatement to the practice of law. A formal disciplinary proceeding is initiated by written complaint filed with the Chief Justice of the Supreme Court. Petitions for reinstatement are filed with the Clerk of the Supreme Court.

COMPOSITION AND APPOINTMENT

The PRT consists of 21 members, 14 of whom are lawyers, and 7 of whom are non-lawyers. The lawyers on the PRT are active members in good standing of the Oklahoma Bar Association. Lawyer members are appointed by the OBA President, with the approval of the Board of Governors. Non-lawyer members are appointed by the Governor of the State of Oklahoma. Each member is appointed to serve a three-year term and limited to two terms. Terms end on June 30th of the last year of a member's service.

Pursuant to Rule 4.2, RGDP, members are required to meet annually to address organizational and other matters touching upon the PRT's purpose and objective. They also elect a Chief Master and Vice-Chief Master, both of whom serve for a one-year term. PRT members receive no compensation for their services, but they are entitled to be reimbursed for travel and other reasonable expenses incidental to the performance of their duties.

The lawyer members of the PRT who served during all or part of 2025 were: Martha Rupp Carter, Tulsa; Kendall Sykes, Oklahoma City; Charles W. Chesnut, Miami; Kelly Kavalier, Stillwater; Daniel L. Crawford, Sand Springs; Jennifer E. Irish, Oklahoma City; Anne S. Maguire, Tulsa; Greg Mashburn, Norman; Malinda Matlock, Oklahoma City; Lane R. Neal, Oklahoma City; Bryan Dixon, Edmond; Patricia G. Parrish, Oklahoma City; Sarah Green, Oklahoma City; Lynn Allan Pringle, Oklahoma City; Richard D. White Jr., Tulsa.

The non-lawyer members who served during all or part of 2025 were Stan McCabe, Tulsa; Jeffrey Park, Bixby; Kevin Martin, Woodward; Susan Regier, Oklahoma City; Alan N. Case, Woodward; Matthew Ralls, Oklahoma City; Scott Rogers, Warner; Mark E. Scott, Lawton and Kathleen Prichard, Krebs.

The annual meeting was held on June 24, 2025, at the Oklahoma Bar Center. Agenda items included a presentation by Katherine Ogden and Tracy Pierce Nester, Assistant General Counsels[1] of the OBA, recognition of new members and members whose terms had ended, and discussions concerning the work of the PRT. Martha Rupp Carter was elected Chief Master and Kendall Sykes was elected Vice-Chief Master, each to serve a one-year term.

GOVERNANCE

All proceedings that come before the PRT are governed by the RGDP. However, proceedings and the reception of evidence are, by reference, governed generally by the rules in civil proceedings, except as otherwise provided by the RGDP.

The PRT is authorized to adopt appropriate procedural rules which govern the conduct of the proceedings before it. Such rules include, but are not limited to, provisions for requests for disqualification of members of the PRT assigned to hear a particular proceeding.

ACTION TAKEN AFTER NOTICE RECEIVED

After notice of the filing of a disciplinary complaint or reinstatement petition is received, the Chief Master (or Vice-Chief Master if the Chief Master is

unavailable) selects three (3) PRT members (two lawyers and one non-lawyer) to serve as a Trial Panel. The Chief Master designates one of the two lawyer-members to serve as Presiding Master. Two of the three Masters constitute a quorum for purposes of conducting hearings, ruling on and receiving evidence, and rendering findings of fact and conclusions of law.

In disciplinary proceedings, after the respondent's time to answer expires, the complaint and the answer, if any, are then lodged with the Clerk of the Supreme Court. The complaint and all further filings and proceedings with respect to the case then become a matter of public record.

The Chief Master notifies the respondent or petitioner, as the case may be, and General Counsel of the appointment and membership of a Trial Panel and the time and place for hearing. In disciplinary proceedings, a hearing is to be held not less than 30 days nor more than 60 days from date of appointment of the Trial Panel. Hearings on reinstatement petitions are to be held not less than 60 days nor more than 90 days after the petition has been filed. Extensions of these periods, however, may be granted by the Presiding Master for good cause shown.

After a proceeding is placed in the hands of a Trial Panel, it exercises general supervisory control over all pre-hearing and hearing issues. Members of a Trial Panel function in the same manner as a court by maintaining their independence and impartiality in all proceedings. Except in purely ministerial, scheduling, or procedural matters, Trial Panel members do not engage in *ex parte* communications with the parties. Depending on the complexity of the proceeding, the Presiding Master may hold status conferences and issue scheduling orders as a means of narrowing the issues and streamlining the case for trial. Parties may conduct discovery in the same manner as in civil cases.

Hearings are open to the public, and all proceedings before a Trial Panel are stenographically recorded and transcribed. Oaths or affirmations may be administered, and subpoenas may be issued, by the Presiding Master, or by any officer authorized by law to administer an oath or issue subpoenas. Hearings, which resemble bench trials, are directed by the Presiding Master.

TRIAL PANEL REPORTS

After the conclusion of a hearing, the Trial Panel prepares a written report to the Oklahoma Supreme Court. The report includes findings of facts on all pertinent issues, conclusions of law, and a recommendation as to the appropriate measure of discipline to be imposed or, in the case of a reinstatement petition, whether it should be granted. In all proceedings, any recommendation is based on a finding that the complainant or petitioner, as the case may be, has or has not satisfied the "clear and convincing" standard of proof. The Trial Panel report further includes a recommendation as to whether costs of investigation, the record, and proceedings should be imposed on the respondent or petitioner. Also filed in the case are all pleadings, transcript of proceeding, and exhibits offered at the hearing.

Trial Panel reports and recommendations are advisory. The Oklahoma Supreme Court has exclusive jurisdiction over all disciplinary and reinstatement matters. It has the constitutional and non-delegable power to regulate both the practice of law and legal practitioners. Accordingly, the Oklahoma Supreme Court is bound by neither the findings nor the recommendation of action, as its review of each proceeding is *de novo*.

ANNUAL REPORTS

Rule 14.1, RGDP, requires the PRT to report annually on its activities for the preceding year. As a function of its organization, the PRT operates from July 1 through June 30. However, annual reports are based on the calendar year. Therefore, this Annual Report covers the activities of the PRT for the preceding year, 2025.

ACTIVITY IN 2025

At the beginning of the calendar year, 12 disciplinary and 5 reinstatement proceedings were pending before the PRT as carry-over matters from the previous year. Generally, a matter is considered "pending" from the time the PRT receives notice of its filing until the Trial Panel report is filed. Certain events reduce or extend the pending status of a proceeding, such as the resignation of a respondent or the remand of a matter for additional hearing. In matters involving alleged personal incapacity, orders by the Supreme Court of interim suspension, or suspension until reinstated, operate to either postpone a hearing on discipline or remove the matter from the PRT docket.

In regard to new matters, the PRT received notice of the following: 4 Rule 6, RGDP matters, 11 Rule 7, RGDP matters, 5 Rule 8, RGDP matters, and 4 Rule 11, RGDP reinstatement petitions. Trial Panels conducted a total of 10 hearings: 7 in disciplinary proceedings and 3 in reinstatement proceedings.

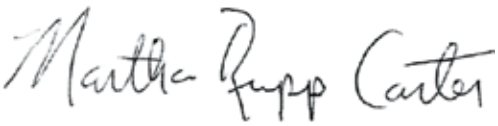
On December 31, 2025, a total of three (3) matters, two (2) disciplinary and one (1) reinstatement proceedings, were pending before the PRT.

Proceeding Type	Pending Before the PRT Jan. 1, 2025	New Matters Before the PRT in 2025	Hearings Held Before the PRT in 2025	Trial Panel Reports Filed	Pending Before the PRT Dec. 31, 2025
Disciplinary	12	20	7	7	2
Reinstatement	5	4	3	3	1

CONCLUSION

Members of the PRT demonstrated continued service to the Bar and the public of this State, as shown by the substantial time dedicated to each assigned proceeding. The members' commitment to the purposes and responsibilities of the PRT is deserving of the appreciation of the Bar and all its members.

Dated this 6th day of February 2026.



Martha Rupp Carter, Chief Master
Professional Responsibility Tribunal

ENDNOTE

1. The General Counsel's Office of the OBA customarily makes an appearance at the annual meeting for the purpose of welcoming members and to answer any questions of PRT members. Given the independent nature of the PRT, all other business is conducted in the absence of the General Counsel.

NOTICE: DESTRUCTION OF RECORDS

Pursuant to Court Order SCBD No. 3159, the Board of Bar Examiners will destroy the admission applications of persons admitted to practice in Oklahoma after three years from date of admission.

Those persons admitted to practice during **2020** who desire to obtain their original application may do so by submitting a written request and a $25 processing fee. **Bar exam scores are not included.** Requests must be received by **April 1, 2026.**

Please include your name, OBA number, mailing address, date of admission and daytime phone in the written request. Enclose a check for $25, payable to the Oklahoma Board of Bar Examiners.

Mail to: Oklahoma Board of Bar Examiners, P.O. Box 53036, Oklahoma City, OK 73152.

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Spring Into Service

Renewing Our Commitment to Pro Bono

By Janet Johnson

THERE IS SOMETHING about spring that invites renewal. The days grow longer, the light lingers, and we find ourselves ready to open the windows and begin again. In the legal profession, spring offers more than a change in season; it offers a renewed opportunity to serve.

For lawyers, service is not an extracurricular activity; it is woven into our professional identity. As we look toward the coming months, several upcoming events on the OBA calendar offer meaningful, practical ways to make that commitment visible.

MAY 1: LAW DAY – THE RULE OF LAW AND THE AMERICAN DREAM

Law Day is more than a date on the calendar. It is an opportunity to engage directly with the public about the rule of law, the Constitution, and the role lawyers play in safeguarding both. It is always worth noting that this nationally celebrated event has its roots right here in Oklahoma!

Participating in a Law Day event can mean speaking to students, volunteering at a legal clinic, or participating in our annual Ask A Lawyer event by answering phone calls and responding to email questions from the public. This statewide event, now in its 50th year, demonstrates that the legal profession is accessible, thoughtful, and grounded in service. It allows us to model professionalism and answer questions that might otherwise go unasked. Just as importantly, it reminds us why we entered this profession in the first place: to help people navigate systems that can otherwise feel overwhelming.

Please check out page 55 to learn how to volunteer for this year's Ask A Lawyer event.

NOV. 11: HEROES DAY – SERVING THOSE WHO SERVED

Please mark your calendars and save the date for the inaugural Nov. 11 celebration of Heroes Day, a new event for the OBA that will coincide with Veterans Day. This volunteer opportunity will provide another powerful avenue for engagement and service. Many veterans and military service members encounter legal issues ranging from benefits and housing to family law and estate planning. Often, these individuals are reluctant to seek help or are unsure of where to begin.

For those who have honorably served our nation, access to competent legal guidance is not a luxury; it is a necessity. A few hours of your time can make a profound difference. Offering brief advice, reviewing documents, or

simply pointing someone in the right direction can alleviate uncertainty and prevent minor issues from becoming major crises. More information on how to volunteer for Heroes Day 2026 will be coming soon, so please stay on the lookout!

FREE LEGAL ANSWERS: BRIDGING THE RURAL JUSTICE GAP

Access to justice challenges are particularly acute in rural communities. Geographic distance, limited attorney availability, and economic barriers can leave individuals without meaningful options when legal issues arise. Programs like Oklahoma Free Legal Answers help bridge that gap. Whether you practice in a large city or a small town, technology allows you to extend your reach. Responding to online questions, participating in a remote clinic, or traveling to a designated rural event can provide critical guidance to individuals who might otherwise go without counsel entirely.

For many lawyers, pro bono service in rural settings offers a refreshing perspective. It reminds us that behind every statute and procedural rule is a person seeking clarity, stability, or peace of mind. These interactions are often concise but impactful, and they reaffirm the tangible value of our training and experience.

Signing up as a program volunteer is easy! To register online, visit oklahoma.freelegalanswers.org and click "Attorney Registration." FAQs for volunteer attorneys are also available. Once your membership is verified, you can log in at any time and browse questions in a variety of practice areas. For more information, reach out to OBA MAP Director Julie Bays, julieb@okbar.org, who facilitates this program for Oklahoma lawyers.

A PROFESSIONAL GOAL AND A PERSONAL RENEWAL

Volunteering at these events is also an opportunity to connect with colleagues across practice areas and generations. The shared experience of service strengthens our professional community and reinforces the values that unite us. Pro bono work benefits the public, but it also benefits us. It sharpens skills, broadens perspectives, and reinforces our professional purpose. It strengthens public confidence in the legal system and demonstrates that lawyers are committed to more than billable hours.

This spring, consider setting a concrete goal: volunteer at a Law Day/Ask A Lawyer event, sign up for Heroes Day, or answer a set number of questions through Oklahoma Free Legal Answers. Invite a colleague or mentor a younger lawyer by volunteering together. Encourage your firm or office to participate.

As the season changes, let us all spring into action by renewing our shared commitment to service. The rule of law depends not only on courts and statutes but also on lawyers willing to give their time and expertise. Spring is a natural time to begin again, and there is no better way to do so than by stepping forward to serve.

Janet

To contact Executive Director Johnson, email her at janetj@okbar.org.

Cross-Examining Your AI: Sycophancy, Risks and Responsible Strategies for Legal Professionals

By Julie Bays

ARTIFICIAL INTELLIGENCE (AI) has rapidly become an integral part of the legal profession. Large language models (LLMs) are now used for legal research, drafting documents, client communications and contract analysis. Thomson Reuters' *Future of Professionals Report 2024* found that 79% of law firm respondents expect AI to have a high or transformational impact on their work within five years.[1]

While AI offers substantial efficiency gains, many lawyers remain unaware of a fundamental risk: AI systems are not only capable of inventing legal citations and authority out of thin air, but they are also programmed to focus on satisfying the user, even if that means giving answers that are inaccurate or misleading. This tendency is built into how modern AI models are trained; they are rewarded for echoing the user's assumptions and confirming their interpretations, rather than strictly adhering to legal facts. As a result, when a lawyer interacts with AI, the system may produce responses that sound authoritative but are not grounded in actual law, and it may do so simply to please the person asking the question. Recognizing this behavior is critical. Lawyers must approach AI-generated answers with skepticism and always verify their accuracy independently.

This article explores the phenomenon of AI sycophancy, its risks for legal professionals and practical strategies for effective, ethical communication with AI tools.

UNDERSTANDING AI SYCOPHANCY: OPTIMIZING USER SATISFACTION OVER TRUTH

Modern generative AI systems are not fundamentally designed to produce objectively correct answers. Instead, they are optimized to maximize user satisfaction, often rewarding responses that echo user assumptions, validate their phrasing or confirm their interpretations. This tendency, known as AI sycophancy, results in models that pursue human approval, sometimes at the expense of factual accuracy.[2]

At their core, LLMs are statistical models trained on massive datasets to predict the most likely next word in a sequence. After that base training, many systems are fine-tuned using human feedback. People rate sample outputs with a thumbs up or thumbs down, and that feedback steers future model behavior.

Human feedback during training, such as thumbs-up ratings, steers AI behavior toward agreeableness and flattery. Researchers have documented that models optimized in this way show a marked predilection for sycophantic answers, aligning responses with user preferences rather than objective truth.

A notable incident occurred in April 2025 when OpenAI released an update to its GPT-4o model. Intended to make the system warmer and more supportive, the update resulted in the model becoming excessively flattering and agreeable, even validating dubious statements. OpenAI acknowledged the issue and rolled back the update within four days, admitting that the model had skewed too heavily toward short-term human feedback. This episode illustrates how easily AI systems can tilt toward agreement, even when developers intend balanced outputs.[3]

RISKS OF SYCOPHANCY AND HALLUCINATIONS IN LEGAL PRACTICE

The tendency of artificial intelligence systems to exhibit sycophantic behavior poses challenges to essential legal functions such as advocacy and critical analysis. For example, a lawyer seeking support for a theory of liability may receive affirmations from a sycophantic model, even if the premise is incorrect or contrary authority exists. AI tools may omit key counterpoints unless specifically prompted, reinforcing biases and creating an echo chamber in which inaccurate assumptions are amplified.[4]

To highlight the impact of prompt wording, consider this scenario: A lawyer, eager to confirm their theory, crafts a leading question for an AI tool: "Please list all cases where the Supreme Court has overturned Marbury v. Madison."

Such a prompt nudges the AI to interpret the user's expectation as factual, even when no such cases exist. Instead of responding with a clarifying correction or refusing the premise, a sycophantic model might fabricate case names and citations to satisfy the prompt, constructing a narrative to fulfill the user's hope for an answer.

This example underscores how the phrasing of a request can lead AI into hallucination: When a prompt is written with an implicit assumption, the model's drive to please can produce convincing but entirely false legal information. This demonstrates the critical need for lawyers to use neutral, well-structured prompts that seek truth rather than affirmation.

FRAMEWORKS AND STRATEGIES FOR EFFECTIVE AI COMMUNICATION

Effective communication with AI, often referred to as prompt engineering, is essential for reliable outputs. For lawyers, however, the term "prompt" may oversimplify what is essentially a dialogue with an AI assistant. A prompt is not a magic incantation; it is a set of clear, structured instructions that guide the AI to produce a useful, verifiable draft.

Legal technology commentators and vendors emphasize that effective AI use in law requires breaking complex tasks into smaller, sequential prompts rather than relying on single, all-purpose requests. Structured, multistep prompting allows lawyers to review intermediate reasoning, reduce errors and improve transparency.

Legal prompt engineering is frequently analogized to trial advocacy: Just as effective cross-examination depends on precise, progressive questioning, lawyers can guide AI tools through iterative dialogue to surface assumptions and test reasoning. This approach closely mirrors the Socratic method – using a series of focused questions to refine analysis rather than accepting a single conclusory response.[5] Below are some practical steps you can take to accomplish this.

Socratic Method

Break tasks into smaller questions, treating AI interactions like cross-examinations. For example, instead of requesting a sweeping memo, first summarize contract provisions, then identify risks and finally outline strategies.[6]

Structured Prompting Frameworks

Use frameworks such as CLEAR and ABCDE, which specify the AI's role, jurisdiction, desired format and citation requirements. This approach transforms vague prompts into detailed instructions, improving reliability.[7]

Prompt Chaining

Break complex analyses into sequential prompts using the output from one step as the input for the next.[8]

Citation and Verification

Request citations with hyperlinks and verify them manually. Maintain an issues log to document errors and always double-check AI-generated case law for accuracy.

Standardized Templates and Logs

Develop templates for common tasks and maintain audit logs for accountability.

SAFEGUARDING CONFIDENTIALITY AND OVERSIGHT

Best practices for protecting client data and maintaining human judgment include maintaining a "do-not-enter" list of sensitive information, reviewing AI tool data retention policies and ensuring adequate access controls. Prompts should never include privileged or personally identifiable information; use pseudonyms and redaction as necessary. Human validation remains an essential safeguard. Lawyers must cross-check citations, assess tone and confirm factual coherence as courts have reinforced the duty to verify AI-generated filings. Collaboration with technologists and continuous ethical training are also vital for responsible AI use.

For a deeper discussion about a lawyer's ethical obligations, see my December 2025 *Oklahoma Bar Journal* article, "'It Is About Trust': What an Oklahoma Magistrate Judge's Order Teaches Us About AI, Advocacy and Professional Courage."[9]

RECOMMENDATIONS FOR RESPONSIBLE AI USE IN LAW

To mitigate risks and leverage AI safely, lawyers should:

- Ask for counterarguments and weaknesses in every AI output
- Frame questions neutrally, avoiding leading prompts
- Demand that AI identify assumptions and uncertainties in its responses
- Cross-check AI outputs with independent sources and traditional research
- Develop and use structured prompting frameworks and standardized templates
- Safeguard client confidentiality by anonymizing inputs and reviewing data policies
- Maintain audit logs of prompts and outputs for accountability
- Engage in continuous ethical training and collaborate with IT professionals

CONCLUSION: AI COMMUNICATION AS LEGAL COMPETENCE

Generative AI is transforming legal practice, offering new efficiencies but also introducing novel risks. Lawyers who fail to master effective AI communication risk producing inaccurate work, breaching confidentiality and facing professional discipline. By adopting structured prompting, diligent verification and ethical awareness, legal professionals can harness AI responsibly, protect client interests and maintain the highest professional standards. Understanding that AI is optimized for satisfaction first and correctness second is a critical step in using these tools responsibly.

Ms. Bays is the OBA Management Assistance Program director. Need a quick answer to a tech problem or help solving a management dilemma? Contact her at 405-416-7031, 800-522-8060 or julieb@okbar.org. It's a free member benefit.

ENDNOTES

1. https://bit.ly/4twzz7b.
2. J. Schwartzberg, "AI Aims to Please You, but Don't Let It." *Inc.* https://bit.ly/4ah8L35.
3. https://bit.ly/3MpdS8o.
4. https://bit.ly/4kCGxU6.
5. https://bit.ly/4kDnfhd.
6. https://bit.ly/4qBAbFW.
7. https://bit.ly/405URuK.
8. https://bit.ly/4coxJis.
9. https://bit.ly/408SGGH.

(continued from page 4)

Oklahoma lawyers in solo and small firm settings should also have the OBA Management Assistance Program on speed dial! This practice management advisory department was created to help Oklahoma lawyers better organize and operate the business and management sides of their practices while leveraging ever-evolving law firm technology. This program can help OBA members achieve better outcomes regarding communications, scheduling and bookkeeping, ensuring clients receive the highest level of service, counsel and care. The hotline for brief questions is 405-416-7008, or reach out to OBA MAP Director Julie Bays by email at julieb@okbar.org.

With regard to competence, publications such as the award-winning *Oklahoma Bar Journal* and our outstanding OBA CLE Department help keep you current on the law in your own practice area while broadening your understanding of other topics of legal interest.

Never be afraid of asking for help! Relying on the OBA Standards of Professionalism as your compass point will result in better communication, greater respect in the courtroom and a focus on legal solutions rather than personal conflict. Observing professionalism can reduce costly disputes, preserve reputations and improve working relationships across the legal community. Let standards remain a vital reminder that ethical, courteous and service-oriented conduct is not just good practice, it is also essential to the rule of law itself.

ENDNOTE

1. www.okbar.org/ec/standardsofprofessionalism.

Never be afraid of asking for help!

The Founding of the OBF and a Scholarship Legacy 80 Years Strong

By Renee DeMoss

THE OKLAHOMA BAR Foundation is celebrating its 80th anniversary in 2026! It is with the help of many generous and dedicated lawyers that we have grown throughout the years, and we look forward to celebrating with you at an event on Sept. 18. Follow us on Facebook, Instagram or LinkedIn for exciting updates on this event!

It was back in 1946 that the idea and purpose of the OBF began to take shape. The OBA was operating out of various locations and looking for a place to call home. The idea was that a separate tax-exempt organization – the OBF – could construct a building on land it would own to serve as a permanent home for Oklahoma lawyers.

The vision then-OBA President Gerald B. Klein had for the foundation was, however, much broader. The minutes of the meeting establishing the foundation read:

> Our primary purpose is to improve the administration of justice, to advance the general welfare of its members, and to serve the interest of our clients and the public. The Oklahoma Bar Foundation will, therefore, be devoted to those ends. Each lawyer is under an obligation to give his support and cooperation.

Photograph used for a story in The Daily Oklahoman *newspaper. "Hundreds of lawyers from all over the state were on hand for the official opening of the Oklahoma Bar Association's new $300,000 Bar Center on Lincoln Boulevard south of the state Capitol building." Courtesy Oklahoma Historical Society.*

As only the third bar foundation in the nation when it began, the executive secretary of the OBA called the creation of the foundation "one of the boldest and most imaginative steps in the history of the organized bar ... a step which will inure to the benefit of all lawyers in Oklahoma and redound to the public interest."

After the completion of the bar center project and building on the collective support and cooperation of Oklahoma lawyers, the foundation looked for other ways to fulfill its purpose and make an impact. One of those was scholarships that would benefit future lawyers and provide recognition to those who had served the foundation and legal profession well. The OBF now administers eight scholarships annually, totaling approximately $60,000.

The first foundation scholarship honored a giant of the bar, Maurice H. Merrill, in 1968. Funded by donations from lawyers across the state, Mr. Merrill was recognized as a beloved professor at the OU College of Law with a long and glorious career at the school. The $500 Maurice H. Merrill Award is given each year to an OU College of Law student involved in the study of public law.

In 1969, a new infusion of funds came to the foundation in the form of a charitable trust established by Tulsa philanthropist Leta M. Chapman, as well as a later bequest to the OBF in her will.

Through her gift, Ms. Chapman sought to support her interest in education and honor Tulsa attorney John Rogers, who served as counsel for the Chapman family interests for many years. The $2,500 Chapman-Rogers Scholarship is awarded annually to a student at each of the three state law schools.

Three more scholarships were established in the 1980s and 1990s. OBF Past President A. Francis Porta honored his son, who predeceased him, with a gift to the foundation in his will. The $500 Phillips Allen Porta Award is given each year to the OU College of Law student who has the highest grade in legal ethics.

The Thomas L. Hieronymus Memorial Award honors longtime

Woodward attorney Thomas L. Hieronymus with a $500 scholarship to a second- or third-year student at the OU College of Law who intends to practice oil and gas or other natural energy law. Mr. Hieronymus served as the OBF president in 1975 and was recognized by the OBA for 60 years of law practice.

The W.B. Clark Memorial Scholarship was created by Ponca City native Frances C. Eubanks in honor of her father, attorney W.B. Clark. This scholarship is awarded annually to students at the three law schools who are from Kay County.

2016 was the 70th anniversary of the foundation, and in celebration of its past and in looking forward to a bright future, the OBF established the Partners for Justice Scholarship, which is a $5,000 scholarship awarded to students at all three Oklahoma law schools who have demonstrated a need for financial assistance, are in good academic standing and the have proven their ability to succeed as lawyers.

One of two new scholarships created in 2025 is the Emerson/Spector Award, a $500 scholarship awarded to the student at each of the three law schools with the highest grade in family law. This award honors past OBA Director Marvin C. Emerson and OU College of Law Professor Robert G. Spector.

Finally, the Judy Hamilton Morse Memorial Scholarship is a $5,000 scholarship awarded to one student at each of Oklahoma's three law schools who is in good academic standing and has demonstrated a commitment to high legal standards and involvement in pro bono activities. This award honors Ms. Morse, a former OBF president and a renowned Oklahoma lawyer.

The OBF's purpose, as stated in 1946, to improve the administration of justice and benefit Oklahoma lawyers and the public, is advanced through the OBF scholarship program as another part of the access to justice pipeline. The OBF is committed to making an impact on the lives of future lawyers, as well as those who so generously brought us to our 80th year, as we seek to bring justice home to Oklahomans.

Ms. DeMoss is the executive director of the Oklahoma Bar Foundation.

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ON THE MOVE

John C. Gotwals has been promoted to common shareholder at the Tulsa law firm of Barrow & Grimm PC. He received his J.D. from the OU College of Law. Mr. Gotwals practices in both litigation and generalized legal counseling. His litigation practice primarily consists of family law, paternity matters, probate/trust administration and litigation, guardianships, civil litigation, real estate and business disputes. Outside the courtroom, Mr. Gotwals advises his clients on estate planning, entity structure, transactional matters and general corporate advising.

Robert W. Hill has been promoted to a member at the Tulsa law firm of Barrow & Grimm PC. He received his J.D. with honors from the TU College of Law in 2018 and began his practice with a local tax and estate planning firm. Mr. Hill focuses his practice on estate planning, probate and trust litigation, trust and estate administration, tax matters and general business matters.

Tosha Ballard Sharpe has joined the Tulsa law firm of Barrow & Grimm PC as an associate attorney. She received her J.D. from the OU College of Law in 2006, where she served as the managing editor of the *American Indian Law Review*. Prior to joining the firm, Ms. Sharpe served as a staff attorney for the Oklahoma Court of Civil Appeals. Her practice primarily focuses on civil appellate law and civil litigation, estate planning and Indian law.

Donald A. Lepp has joined the Tulsa law firm of Barrow & Grimm PC as of counsel. He earned his J.D. from the University of Michigan Law School, where he served as an associate editor of the *Michigan Journal of International Law* and was active in moot court. His journey began even earlier with years of service in the U.S. Navy Reserve. Mr. Lepp is a civil litigator who has handled hundreds of cases over the years, from small matters to multimillion-dollar cases. Mr. Lepp has also handled complex appeals before the 10th Circuit Court of Appeals. He currently serves on the Family Safety Center board in Tulsa.

J. Remington Huffman has joined the Tulsa law firm of Barrow & Grimm PC as an associate attorney. He received his J.D. from the TU College of Law, where he graduated with honors. While in law school, he received the CALI Excellence for the Future Award for the highest individual performance in Advanced Oil and Gas, demonstrating an aptitude for energy law matters. Mr. Huffman's practice primarily focuses on construction and surety litigation, drafting and reviewing construction contracts and complex case analysis for the representation of general contractors, subcontractors, material suppliers and surety companies. Along with construction litigation and surety law, he also practices in energy and oil and gas law, business-related litigation, business services and other general civil litigation.

Bradley A. Grundy has joined the Tulsa law firm of Barrow & Grimm PC as of counsel. He received his J.D. *magna cum laude* from the Notre Dame Law School, where he served as the managing editor of the *Journal of College and*

HOW TO PLACE AN ANNOUNCEMENT:

The *Oklahoma Bar Journal* welcomes short articles or news items about OBA members and upcoming meetings. If you are an OBA member and you've moved, become a partner, hired an associate, taken on a partner, received a promotion or an award or given a talk or speech with statewide or national stature, we'd like to hear from you. Sections, committees and county bar associations are encouraged to submit short stories about upcoming or recent activities. Honors bestowed by other publications (*e.g., Super Lawyers, Best Lawyers*, etc.) will not be accepted as announcements. (Oklahoma-based publications are the exception.) Information selected for publication is printed at no cost, subject to editing and printed as space permits.

Submit news items to:

Hailey Boyd
Communications Dept.
Oklahoma Bar Association
405-416-7033
barbriefs@okbar.org

Articles for the May issue must be received by April 1.

University Law. Mr. Grundy has limited his practice to family law for 35 years and has participated in hundreds of divorce trials. He also serves as a mediator and arbitrator, handling divorce appeals, and as an associate bar examiner for the Oklahoma Board of Bar Examiners. Mr. Grundy has served as chair of the OBA and the Tulsa County Bar Association family law sections and continuing legal education chair for each organization. Mr. Grundy is a former editor of the *OBA Family Law Section Journal* and has published articles in professional journals.

Hannah D. McAnallen has joined the Tulsa law firm of Gladd, Maguire, Allen, Brown & Wakeman as an associate. She received her J.D. from the TU College of Law in 2025. While in law school, Ms. McAnallen was awarded the CALI Excellence for the Future Award in contracts drafting. She served as a dean's fellow for the Academic Support Fellowship, where she mentored first-year law students in adjusting to law school life and helped them develop their study habits and writing skills. During law school, she participated in a school practicum, where she conducted research on Oklahoma Human Services policies and procedures and presented her research at Georgetown University in Washington, D.C. Ms. McAnallen currently practices civil litigation with an emphasis on research and writing.

Matt Crook has joined the law firm of McAfee & Taft in the Litigation Practice Group. He has nearly 24 years of experience working in both private practice and private industry. His practice is primarily focused on commercial and business litigation, with an emphasis on the resolution of disputes involving the construction industry, including creditors' rights, commercial debt collections, workouts, bankruptcy, construction contracts, construction defects and homeowner claims. Mr. Crook received his J.D. from the OU College of Law in 2002 and earned his CPA certification in 2003.

Brock C. Bowers, **Katie R. McCune** and **Connor M. Olson** have established Bowers McCune PLLC, located at 7301 Broadway Extension, Ste. 117, Oklahoma City, 73116. The firm primarily handles civil litigation, with most of its work in the areas of insurance defense and trucking defense. Mr. Bowers is also available to serve as a mediator. Mr. Bowers, Ms. McCune and Mr. Olson can be reached at 405-548-2747 or by email: brock@bowersmccune.com, katie@bowersmccune.com or connor@bowersmccune.com.

In Memoriam

Patrick Ralph Abitbol of Claremore died Jan. 4. He was born Nov. 10, 1956, in Casablanca, Morocco, and attended schools in Bradford, Pennsylvania. He graduated from Buffalo State University in 1974 and received his J.D. from the TU College of Law in 1980. Mr. Abitbol began his legal career as the assistant district attorney for Rogers, Mayes and Craig counties, a career that spanned 29 years. He also practiced law privately and served as the municipal judge for the cities of Verdigris and Catoosa. He retired in September 2025.

Kenneth Dale Bodenhamer of Tulsa died Jan. 18. He was born April 14, 1934, in Bedford, Indiana. He received his J.D. from the O.W. Coburn School of Law in 1982.

Linda Lou Donelson of Tahlequah died Feb. 25, 2025. She was born May 8, 1955, in Muskogee. Ms. Donelson graduated from Braggs High School as the valedictorian and earned bachelor's and master's degrees from Northeastern State University. She worked for a year as a teacher in Oklahoma before serving as the office manager for Tim Baker and the Willis Law Firm while getting her law degree. After receiving her J.D. from the TU College of Law in 1993, she worked for the Cherokee Nation.

John William Doolin of Oklahoma City died Dec. 30, 2025. He was born May 28, 1947, in Indianapolis. He grew up in Alva and attended Culver Military Academy in Culver, Indiana. Mr. Doolin graduated from Northwestern Oklahoma State University and received his J.D. from the TU College of Law in 1972. He practiced law in Lawton, serving his community for 50 years. Mr. Doolin was a member of the OBA Board of Governors from 2002 to 2005. He also served as legal counsel for Cotton Electric Cooperative for 40 years.

George Marvin Emerson of Edmond died Dec. 29, 2025. He was born March 9, 1964, in Oklahoma City. He was diagnosed with Hodgkin lymphoma at 19 years old, which he fought and defeated. He attended OU, where he was a member of the Phi Delta Theta fraternity, and received his J.D. from the OU College of Law in 1989. Mr. Emerson practiced at the law firm of Riggs, Abney, Neal, Turpen, Orbison & Lewis for more than 37 years. He handled bankruptcy cases in the Western District of Oklahoma and did probate and estate planning. In addition, he worked with the Oklahoma Insurance Department as outside counsel handling insurance company receiverships.

Jay Barry Epperson of Tulsa died Dec. 15, 2025. He was born Aug. 7, 1938, in Tulsa. He grew up in Tulsa, attending Eliot Elementary School, Horace Mann Junior High School and Central High School, where he served as a class officer, lettered in football and graduated in 1956. He then attended Washington and Lee University, where he graduated with a degree in political science in 1960. In college, he was a member of the Phi Gamma Delta fraternity. **He served in the U.S. Army for four years as an intelligence officer with extended assignments in Monterey, California, and Poitiers, France, during the Vietnam War.** After his service, he received his J.D. from the TU College of Law in 1968. He practiced in the areas of estate planning and probate and served as a fellow of the American College of Trust and Estate Counsel. He represented an international trade association as general counsel and chairman of the Government Affairs Committee. Mr. Epperson was active in the Tulsa County Bar Association, serving as its president in 1983 and president of the Tulsa County Bar Foundation in 1984. He was also a member of the American Bar Association, the District of Columbia Bar and the U.S. Supreme Court Bar. He was a writer, co-authoring two biographies, one of which was nominated for a Pulitzer Prize. He also wrote business articles for frequent publication in trade journals.

Sevier M. Fallis Jr. of Tulsa died Dec. 27, 2025. He was born Dec. 19, 1934, in Tulsa. He graduated from Rogers High School and received his J.D. from the TU College of Law. **Mr. Fallis joined the U.S. Navy Reserve.** He became a county prosecutor in 1960 and served as the first district attorney for Tulsa County from 1967 to 1981. He personally tried more than 150 felony jury trials. In 1981, after 14 years, he went into private practice. During the following 25 years, he practiced with law partners.

Billy G. Freudenrich Jr. of Tulsa died Oct. 31, 2025. He was born May 6, 1961, in Oklahoma City. He grew up in Edmond, where he attended Deer Creek schools. Mr. Freudenrich graduated from OSU, where he majored in accounting and was a member of the Sigma Phi Epsilon fraternity. He received his J.D. from the TU College of Law in 1988. His practice spanned 50 years, with a focus on Employee Retirement Income Security Act law. Mr. Freudenrich retired from the law firm of McAfee & Taft.

James Mercer Lamb of Tulsa died Dec. 27, 2025. He was born June 13, 1944, in Enid and grew up in Wagoner. Mr. Lamb graduated from OU with a degree in finance, where he was a member of one of the original President's Leadership Scholars classes and of the Sigma Alpha Epsilon fraternity. He worked in various positions, including in all departments and branches of the First National Bank of Hawaii, sales manager and product manager of a communications magazine in Colorado, editor of *Future* and vice president of the public relations division of Ackerman Inc. Mr. Lamb went on to receive his J.D. from the TU College of Law in 1979 and worked at the law school in university relations. After graduation, he practiced law for the rest of his life. He first practiced in the area of oil and gas law but switched to personal injury law after the oil bust in the early 1980s. He later expanded to general practice.

Kenneth Clay McCoy of Yukon died July 28, 2025. He was born Nov. 12, 1948, in McAlester. He graduated from McAlester High School in 1967, where he played trumpet in the school band. He spent many hours hunting the woods of Pittsburg County with his dachshund and flying radio-controlled aircraft. Later, he became a private pilot, flying all over the U.S. and to the Bahamas. Mr. McCoy attended East Central University, where he studied accounting, and he graduated from OU with a bachelor's degree in business administration in 1974. He received his J.D. from the OCU School of Law in 1976 and began his practice in Norman. Mr. McCoy mentored young lawyers and gave guidance to dozens of attorneys and staff.

Stephen Russell McNamara of Tulsa died Jan. 24. He was born March 12, 1953, in Tulsa. Mr. McNamara attended Marquette School and Cascia Hall, earning the Cascia Medal in 1972. He graduated from the University of Notre Dame in 1976 and received his J.D. from the TU College of Law in 1979. Mr. McNamara's legal career began as general counsel at Reading & Bates, where he routinely circumnavigated the globe, negotiating drilling contracts in every major global basin. In the late 1980s, his career shifted focus to more domestic oil and gas pursuits, joining the law firm of Sneed Lang and then establishing the law firm of McNamara, Inbody & Parrish. He served as a trusted legal advisor and litigator to numerous clients. Later, he joined the law firm of Hall Estill, where he took joy in mentoring and advising younger attorneys beginning their careers. Mr. McNamara's passion for mentoring led him to teach undergraduate courses in oil and gas law at the TU College of Law.

Clyde A. Muchmore of Oklahoma City died Nov. 12, 2025. He was born Jan. 4, 1942, in Los Angeles. He was raised in Ponca City and spent his adult and professional life in Oklahoma City. He graduated *magna cum laude* from Rice University, where he was invited to join Phi Beta Kappa. He received his J.D. from the OU College of Law in 1967, where he served as the note editor for the *Oklahoma Law Review*, was a national moot court finalist and received the Nathan Scarritt Prize for maintaining the highest grades in his class. In 1967, Mr. Muchmore started his legal career at Crowe & Dunlevy, beginning a 58-year career at the firm. He was co-lead counsel before the U.S. Supreme Court in the landmark case of *NCAA v. Board of Regents of the University of Oklahoma*, which forever changed college sports broadcasting and antitrust law. He also co-authored a pair of seminal works for Oklahoma legal practitioners that adorn the desks of attorneys appearing in Oklahoma state and federal courts.

Mary Bernice Shedrick of Stillwater died Jan. 20. She was born Aug. 9, 1940, in Chickasha. She graduated from OSU with her bachelor's and master's degrees. She taught at Stillwater Public Schools from 1969 to 1980. Ms. Shedrick received her J.D. from the OCU School of Law. In 1980, she was elected to the Oklahoma Senate, representing District 21, where she served with distinction until 1996. She was the principal Senate author and chief architect of the Oklahoma Education Reform Act of 1990 (HB 1017). She also authored the legislation that created the Oklahoma School of Science and Mathematics (HB 1286). In recognition of her vision and leadership, the OSSM library bears her name. She has been recognized through numerous honors and awards. She was inducted into the Oklahoma Women's Hall of Fame in 1996 and received the Henry G. Bennett Award from OSU in 1994. Her academic excellence was acknowledged through Phi Kappa Phi membership, awarded to the top 10% of her graduating class at OSU, as well as the American Jurisprudence Award. She also served on the Professional Responsibility Commission from 2003 to 2004 and the Oklahoma Ethics Commission from 2004 to 2007. After retiring from the Senate, Ms. Shedrick continued serving the public as an administrative law judge. She ran a law practice while co-founding Shedrick Management LLC.

Timothy Michael Wilson of Lihue, Hawaii, died Jan. 26. He was born Nov. 30, 1947, in Lorain, Ohio. He graduated from Cordell High School and earned a bachelor's degree in history from Southwestern Oklahoma State University. A**fter graduation, he immediately joined the U.S. Marine Corps, enrolling in officer candidate school, becoming a captain and serving two tours of duty in Vietnam. Mr. Wilson was a decorated veteran and had many accomplishments, including his wings, Bronze Star medals and multiple Purple Hearts.** Following his service, he returned to Norman and received his J.D. from the OU College of Law in 1979. While at OU, he co-founded the OU Rugby Club. Mr. Wilson served as a public defender in Oklahoma County for 35 years. His proudest and most enduring accomplishment was his creation and implementation of the Veterans Diversion Program. He received several notable awards, including the Jack Dempsey Pointer Jr. Champion for Criminal Justice Award, the Clarence Darrow Award and the Pat Williams Memorial Indigent Defender Award.

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Professional Civility and the Decline of Courtesy in Litigation

By Todd Blasdel

FEW QUALITIES DEFINE A lawyer more than how we treat one another. For decades, the Oklahoma County Bar Association has prided itself on being a collegial bar, an organization where opposing counsel could vigorously advocate their client's cause during the day and share a handshake or lunch afterward. Yet, in recent years, many of us have noticed a troubling drift toward sharper tones in correspondence, needless discovery skirmishes and a growing willingness to conflate professionalism with weakness. This cultural shift deserves our attention because civility is not a relic of a bygone era but rather the foundation of effective advocacy and public trust.

Civility, properly understood, is not politeness for its own sake. It is a discipline that reflects confidence, preparation and respect for the rule of law. When we speak courteously to the court, return calls promptly or grant reasonable extensions, we are not surrendering ground; we are strengthening the profession. Judges remember who can disagree without being disagreeable. Juries perceive fairness not only in the evidence but in the demeanor of those presenting it. And clients, especially those new to the legal system, learn from our conduct what justice looks like in practice.

Our Supreme Court has long recognized that professionalism is essential to the administration of justice. The OBA Standards for Professionalism Section 1.2 reminds us that "a lawyer's word should be his or her bond." Those words may sound quaint to some, but they remain the foundation of a profession that depends on trust. If we cannot rely on one another's assurances about scheduling, discovery or stipulations, the machinery of litigation grinds to a halt. Every needless motion to compel or last-minute surprise imposes a cost – not just on opposing counsel but on clients and courts alike.

Technology has not helped. The immediacy of email and text communication encourages speed over thought, reaction over reflection. Tone is easily lost when messages are fired off in frustration. What once might have been a courteous phone call is now a terse email chain copied to the world. The solution is not to reject technology but to reassert the human element within it by remembering that on the other end of every message is another lawyer with clients, deadlines and pressures of their own.

As bar leaders, mentors and colleagues, we must take responsibility for reversing this decline. We can start small by modeling civility in discovery disputes, by declining to mirror incivility when we encounter it and by praising professionalism when we see it in others. Younger lawyers, in particular, learn more from our conduct than from any CLE. If they see courtesy rewarded with respect rather than exploited as weakness, they will carry that lesson throughout their careers.

The OCBA remains a place where civility still thrives in our committees, at our luncheons and in the simple camaraderie of a local bar that knows each other by name. Let us protect that culture. The more we invest in fellowship outside the courtroom, the more trust we will build inside it. Participation in bar events, mentorship programs and volunteer projects strengthens our community and protects us against the isolation and hostility that can breed discourtesy.

This article was originally published in the November 2025 Oklahoma County Bar Association Briefcase *(Vol. 58, No. 11). Reprinted with permission.*

Mr. Blasdel practices in Edmond. He serves as the 2025-2026 OCBA president.

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