

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 910

BY: HENDRICK

AS INTRODUCED

AN ACT RELATING TO INSURANCE; CREATING THE INSURANCE PREMIUM DISCOUNT PROGRAM FOR CHARITY CARE OR SERVICES; PROVIDING SHORT TITLE; DEFINING TERMS; REQUIRING APPROVAL OF CERTAIN DISCOUNTS BY THE INSURANCE COMMISSIONER; PROVIDING GUIDELINES FOR APPROVAL OF DISCOUNTS; STATING CRITERIA TO BE MET BY HEALTH CARE PROFESSIONALS TO ENTITLE THEM TO PREMIUM DISCOUNT; REQUIRING SUBMISSION OF CERTAIN APPLICATION; REQUIRING CERTAIN INFORMATION ON APPLICATION; ALLOWING INSURERS TO AUDIT RECORDS OF CERTAIN HEALTH CARE PROFESSIONALS; PROVIDING PROCEDURES RELATING TO AUDIT; ALLOWING INSURER TO CHARGE HEALTH CARE PROFESSIONALS ADDITIONAL AMOUNTS UNDER CERTAIN CIRCUMSTANCES; ALLOWING HEALTH CARE PROFESSIONAL TO AVOID PENALTY UNDER CERTAIN CONDITIONS; PROHIBITING INSURERS FROM CANCELING OR REFUSING TO RENEW CERTAIN INSURANCE COVERAGE UNLESS CERTAIN CIRCUMSTANCES ARE PRESENT; STATING ENTITLEMENT OF HEALTH CARE PROFESSIONALS TO PREMIUM DISCOUNTS; CLARIFYING ENTITLEMENT OF HEALTH CARE PROFESSIONAL TO APPROPRIATE DISCOUNT; STATING PENALTIES; REQUIRING INSURANCE COMMISSION TO ADMINISTER ACT AND ADOPT NECESSARY RULES, FORMS AND

PROCEDURES; PROVIDING FOR CODIFICATION; AND
PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 924.11 of Title 36, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Insurance Premium Discount Program for Charity Care or Services".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 914.12 of Title 36, unless there is created a duplication in numbering, reads as follows:

For purposes of this act:

1. "Charity care or services" means care or services provided by a health care professional under the Maternal and Infant Care Act, Section 1-231 et seq. of Title 63 of the Oklahoma Statutes;

2. "Eligible medical malpractice claim" means a medical claim against a health care professional who renders charity care in at least ten percent (10%) of the patient encounters engaged in by said health care professional during the policy year in which the claim was made;

3. "Health care professional" means a person who is licensed to practice medicine and surgery, or who is a licensed osteopathic physician or surgeon, or who is a certified nurse-midwife and who provides prenatal, delivery and infant care services to State Department of Health clients pursuant to and in strict compliance with all terms of a contract with the State Department of Health authorized by paragraph (3) of subsection (b) of Section 1-106 of Title 63 of the Oklahoma Statutes;

4. "Insurer" means an insurance company authorized to write and writing medical professional liability insurance in this state, for the purpose of providing medical professional liability insurance;

5. "Medical malpractice claim" means a claim or action against a health care professional alleging one or more negligent acts or omissions in the diagnosis, care or treatment of a patient and alleging that injury to or death of a patient resulted therefrom, without regard to whether said claim or action is based upon tort or contract principles; and

6. "Patient encounter" means an occasion on which a health care professional renders professional health care services to a patient.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 924.13 of Title 36, unless there is created a duplication in numbering, reads as follows:

The Insurance Commission shall approve discounts to be applied by an insurer to premiums for medical professional liability insurance issues to health care professionals covered by this act. The Commissioner shall base the approved discounts upon loss and statistical data provided by each insurer and on the reduction in the insurer's liability exposure based on the state's total liability as established in paragraph 2 of subsection A of Section 154 of Title 51 of the Oklahoma Statutes.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 924.14 of Title 36, unless there is created a duplication in numbering, reads as follows:

A health care professional shall be entitled to a premium discount for medical professional liability insurance coverage if:

1. The projected patient encounters of the health care professional during the policy year will involve providing charity care or services in ten percent (10%) or more of the health care professional's patient encounters; and

2. The health care professional completes fifteen (15) hours of continuing education during the term of the policy on patient safety and risk reduction subjects related to the health care professional's practice that are sponsored, approved, endorsed or accredited by the Insurance Commission, an "insurer" as defined in this section, or a state or nationally recognized accrediting organization or continuing medical or nurse education program.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 924.15 of Title 36, unless there is created a duplication in numbering, reads as follows:

A health care professional who desires a premium discount for medical professional liability insurance coverage shall submit to the insurer not later than the thirtieth day before the beginning of the term of the policy a written verified application for a new policy or a verified statement for a policy to be renewed stating that the health care professional desires a premium discount and qualifies for a premium discount under this act. The application or statement also shall provide necessary information to determine the eligibility of the health care professional and the amount of the discount.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 924.16 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. At the end of a policy year, an insurer may audit the records of any health care professional to whom the insurer has provided a discount under this act to determine if the health care professional provided the charity care and services and completed the continuing education requirements required under Section 3 of this act to qualify for the premium discount during the preceding policy year.

B. To conduct the audit, the insurer is entitled to access to any books and records necessary to determine if the verified

application or statement submitted for the coverage was correct and the health care professional was eligible for the premium discount. If a health care professional denies access to the property or to the books and records, the insurer may obtain an appropriate court order from a court of competent jurisdiction to gain access to the books and the records.

C. If an insurer's audit indicates that a health care professional did not provide charity care or services in ten percent (10%) or more of the patient encounters of the health care professional and did not complete the required continuing education, the insurer may charge the health care professional an amount equal to the difference between the premium paid and the premium that would have been due if the health care professional had not received the premium discount plus twenty percent (20%) of the amount of the premium that would have been due without the premium discount.

D. If a health care professional who has received the premium discount for the policy year submits the difference between the premium paid and the premium that would have been due if the health care professional had not received the premium discount plus interest at the legal rate for the unpaid premium prior to thirty (30) days before the expiration of the policy year, the health care professional will not be subject to the penalty provided in subsection C of this section.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 924.17 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. An insurer may not cancel or refuse to renew the medical professional liability insurance coverage of a health care professional solely on the basis that the health care professional is eligible for a premium discount under this act except for the following reasons:

1. Fraud or misrepresentation in obtaining coverage;

2. Failure to pay premiums when due; or

3. The insurer's being placed under supervision or in conservatorship or receivership, if the cancellation or nonrenewal is approved by the supervisor, conservator or receiver.

B. A health care professional who files the appropriate verified application or statement under this act will be entitled to a premium discount as approved by the Insurance Commission under Section 2 of this act. When consent to rate is used, a health care professional will be entitled to the appropriate discount from the rate agreed to by consent.

C. An insurer who violates this act is subject to the sanctions authorized under Section 619 of Title 36 of the Oklahoma Statutes.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 924.18 of Title 36, unless there is created a duplication in numbering, reads as follows:

The Insurance Commission shall administer this act and shall adopt necessary rules forms, and procedures necessary to carry out its provisions.

SECTION 9. This act shall become effective September 1, 1992.

43-2-1847 CJ