

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1573

By: Monson

AS INTRODUCED

An Act relating to public health and safety; creating the Oklahoma Health Care Authority; stating composition; stating duties and powers; requiring an independent audit; stating responsibilities; providing for the assumption of duties, powers and responsibilities of certain entities by a certain date; providing that certain monies shall be deemed trust funds; providing rights and remedies of bondholders; providing certain exemptions from taxation; authorizing bond investment; creating a revolving fund; amending 36 O.S. 1991, Sections 6503, 6504, 6505, 6506 and 6507, which relate to the Health Insurance Opportunities for Employed Uninsured Oklahomans Act; transferring duties and powers of the Oklahoma Basic Health Benefits Board to the Authority on a certain date; amending Sections 2, 4, 5, 6, 7, 8 and 9, Chapter 347, O.S.L. 1992 (63 O.S. Supp. 1992, Sections 1-116, 1-118, 1-119, 1-120, 1-121, 1-122 and 1-123), which relate to the Oklahoma Health Care Information System Act; transferring the Division of Health Care Information to the Authority; providing that certain rules shall remain in effect until a certain time; providing for deposit of certain

funds; amending 70 O.S. 1991, Sections 625.1, 625.2, 625.3, 625.4, 625.4a, 625.5, 625.6, 625.9, 625.10a, 625.11 and 625.12, Sections 19 and 22, Chapter 324, O.S.L. 1992, 697.2, as amended by Section 20, Chapter 324, O.S.L. 1992, 697.5, 697.7, 697.8, 697.9, 697.10, 697.15, 697.16, 697.17, 697.18, 697.19 and Section 21, Chapter 324, O.S.L. 1992 (70 O.S. Supp. 1992, Sections 625.13, 625.14, 697.2 and 697.20), which relate to the Physician Manpower Training Commission; transferring programs, duties and powers of the Commission to the Authority; dissolving certain funds and transferring funds to the Health Care Authority Revolving Fund; providing for continuation of rules; amending 74 O.S. 1991, Section 1306, as amended by Section 16, Chapter 400, O.S.L. 1992 (74 O.S. Supp. 1992, Section 1306), which relates to the State and Education Employees Group Insurance Board; transferring certain duties to the Authority; amending Sections 3, 4, 5, 6, 7, 8, 10, 11 and 12, Chapter 400, O.S.L. 1992 (74 O.S. Supp. 1992, Sections 1363, 1364, 1365, 1366, 1367, 1368, 1370, 1371 and 1372), which relate to the Oklahoma State Employees Benefits Act; transferring duties and powers of the Oklahoma State Employees Benefits Council to the Authority; dissolving certain fund and transferring monies to the Oklahoma Health Care Revolving Fund; providing for codification; providing an effective date; and declaring an emergency.

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 5001 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created a body corporate and politic to be known as the "Oklahoma Health Care Authority". The Authority shall be composed of eleven (11) members, appointed by the Governor, who shall serve at the pleasure of the Governor.

B. The Authority shall have the power to:

1. Make, amend and repeal bylaws for the management of its affairs;

2. Sue and be sued;

3. Make contracts and execute all instruments necessary or convenient for carrying out its business;

4. Acquire, own, hold, dispose of and encumber real or personal property of any nature, both tangible and intangible, or any interest therein;

5. Enter into agreements or other transactions with any federal, state, county or municipal agency, authority or other governmental entity and with any individual, corporation, enterprise, association or any other entity;

6. Acquire real property or an interest therein, by purchase or foreclosure, where such acquisition is necessary or appropriate to protect or secure any investment or loan in which the Authority has an interest;

7. Sell, transfer and convey any such property to a buyer, and in the event such sale, transfer or conveyance cannot be effected

with reasonable promptness or at a reasonable price, to lease such property to a tenant;

8. Invest any funds provided by the state and held in reserve in funds not required for immediate disbursement and invest funds received from gifts, grants, donations and other operations of the Authority in such investments as would be lawful for a private corporation having purposes similar to the Authority;

9. Borrow money and give guaranties, provided that the indebtedness and other obligations of the Authority shall be payable solely out of its own resources, and shall not constitute a pledge of the full faith and credit of the state or any of its revenues;

10. Appoint an administrative director, officers, consultants, agents and advisors, and prescribe their duties and compensation;

11. Appear in its own behalf before boards, commissions, departments or other agencies of municipal, county or state government or federal government;

12. Procure insurance against any losses in connection with its properties in such amounts from such insurers as may be necessary or desirable;

13. Consent, subject to the provisions of any contract with noteholders, whenever it considers it necessary or desirable in the fulfillment of the purposes of this act, to the modifications, with respect to the rate of interest, time payment or of any installment, of principal and interest or any terms of any contract or agreement of any kind to which the Authority is a party;

14. Accept any and all donations, grants, bequests and devises, conditional and otherwise, of money, property, services or other things of value which may be received from the United States or any agency thereof, any governmental agency, or any institution, person, firm or corporation, public or private, to be held, used or applied for any or all of the purposes specified in this act, in accordance with the terms and conditions of any such grant;

15. Trade, buy or sell qualified securities;

16. Own, possess and take license in patents, copyrights and proprietary processes and negotiate and enter into contracts and establish charges for the use of such patents, copyrights and proprietary processes when such patents and licenses for innovation or inventions result from research sponsored by the Authority in a private enterprise or when the Authority finances a product developed by a private enterprise;

17. Conduct studies which are related to health care delivery, involving product or process innovations;

18. Prepare, publish and distribute such studies, reports, bulletins and other materials as it considers appropriate, subject only to the maintenance and responsibility for confidentiality;

19. Participate with any state agency or institution of higher education in developing specific goals, programs and performance monitoring systems to assist in the development of health care delivery in this state;

20. Provide data and information required by the Governor, the Legislature, or its committees, and to state agencies, institutions of higher education and cities, towns, counties and school districts and to private citizens and groups, within the limitations of the resources available to the Authority; and

21. Exercise any other powers necessary for the operation and functioning of the Authority within the purposes authorized in this act.

C. The Authority shall be exempt from all franchise, corporate business, insurance premiums and income taxes levied by the state.

D. The Authority shall adopt, publish and submit by January 1 of each year to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives appropriate administrative policies. All actions governed by said administrative policies shall be examined annually in an independent

audit. The Authority shall not be subject to state purchasing laws, except with respect to purchases required for the administrative expenses of the Authority, or laws concerning travel or reimbursement of state employees. Professional service contracts executed by the Authority shall not be subject to any requirement of law relating to competitive bidding.

Because many of the powers and duties of the Authority involve working closely with the private sector, certain employee positions of the Authority must be governed, classified and compensated in a manner that compares equally to similar positions in the private sector. Therefore, in the annual business plan, the Authority shall list, describe and justify all such positions and their compensation and shall designate and place them in unclassified status, exempt from the provisions of the Oklahoma Personnel Act. All other employees and positions shall be classified and subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act. Provided, nothing in this section shall be construed to limit the authority of the Legislature to specify the status of positions otherwise by law. Neither shall the Authority have the power to circumvent, disregard or otherwise disobey specific provisions of law regarding positions in the Oklahoma Health Care Authority.

E. The Authority shall be responsible for conducting regional and local planning for health care delivery, establishing minimum basic health care benefits packages, developing standards for certification of managed care and other provider networks, developing practice guidelines for cost-containment for health care delivery, and for developing a comprehensive system for networking health care providers and insurance companies.

F. By July 1, 1994, the Authority shall assume the duties, powers and responsibilities of:

1. The Oklahoma State Employees Benefits Council;

2. Enforcement of the Small Employer Health Insurance Reform Act;

3. Enforcement of the Oklahoma Health Care Information System Act;

4. Enforcement of the Health Insurance Opportunities for Employed Uninsured Oklahomans Act;

5. The Physician Manpower Training Commission; and

6. Administration of the delivery and reimbursement mechanism for Medicaid, pursuant to eligibility approval by the Department of Human Services.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5002 of Title 63, unless there is created a duplication in numbering, reads as follows:

All monies received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds, to be held and applied solely as provided in this act. The resolution authorizing the bonds of any issue or the trust agreement securing such bonds shall provide that any officer to whom, or any bank or trust company to which, such money shall be paid shall act as trustee of such monies and shall hold and apply the same for the purposes hereof, subject to such regulations as this act and such resolution or trust agreement may provide.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5003 of Title 63, unless there is created a duplication in numbering, reads as follows:

Any holder of bonds issued under the provisions of this act or any of the coupons appertaining thereto, and the trustee under the trust agreement, except to the extent the rights herein given may be restricted by such trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding protect and enforce any and all rights under the laws of the state or granted hereunder or under such trust agreement or the resolution authorizing the

issuance of such bonds, and may enforce and compel the performance of all duties required by this act or by such trust agreement or resolution to be performed by the Authority or by any officer thereof, including the fixing, charging and collecting of tolls.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5004 of Title 63, unless there is created a duplication in numbering, reads as follows:

The exercise of the powers granted by this act shall be in all respects for the benefit of the people of the state, for the improvement of their health and health care delivery, and as the operation and maintenance of programs by the Authority, shall constitute the performance of essential governmental functions. The Authority shall not be required to pay any taxes or assessments upon any property acquired or used by the Authority under the provisions of this act or upon the income therefrom, and the bonds issued under the provisions of this act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the state. The Authority is hereby limited in its power to acquire property to the acquisition of property which is necessary to fulfill its duties and functions.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5005 of Title 63, unless there is created a duplication in numbering, reads as follows:

Bonds issued under the provisions of this act are hereby made securities in which all public officers and public bodies, agencies, and instrumentalities of the state and its political subdivisions, all banks, trust companies, trust and loan associations, investment companies, and others carrying on a banking business, and all insurance companies and insurance associations, and others carrying on an insurance business, may legally and properly invest funds including capital in their control or belonging to them.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5006 of Title 63, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Oklahoma Health Care Authority to be designated the "Oklahoma Health Care Authority Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Authority, from any source. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Authority for any purpose authorized by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 7. AMENDATORY 36 O.S. 1991, Section 6503, is amended to read as follows:

Section 6503. As used in this act:

1. "Administrator" means the Administrator employed by the Oklahoma Basic Health Benefits Board;

2. "Authority" means the Oklahoma Health Care Authority;

3. "Board" means the Oklahoma Basic Health Benefits Board;

~~3.~~ 4. "Dependent" means an eligible employee's spouse and unmarried children or stepchildren within age limits and other conditions as determined by the Board with regard to unmarried children or stepchildren;

~~4.~~ 5. "Eligible employee" means an employee, proprietor or partner who:

a. is a resident of this state as defined pursuant to rules promulgated by the Board,

b. works an average of twenty-four (24) hours a week or more for an eligible employer, and

- c. was not covered by a group health insurance policy or plan offered by the same employer within the fifteen (15) months preceding the offer to purchase health insurance issued pursuant to this act;

~~5.~~ 6. "Eligible employer" means a corporation, partnership or proprietorship which:

- a. has done business in this state for at least one (1) year as defined pursuant to rules promulgated by the Board,
- b. has not provided health insurance within the fifteen (15) months preceding the offer to purchase health insurance issued pursuant to this act to at least seventy-five percent (75%) of its employees who are residents of this state and work an average of twenty-four (24) hours or more a week for said employer, and
- c. does not violate any rule of the Board promulgated to prevent abuse by parties who form firms primarily for the purpose of qualifying as an eligible employer;

~~6.~~ 7. "Issuer" means each entity which the Board approves to issue a state-certified, basic health benefits plan; and

~~7.~~ 8. "State-certified, basic health benefits plan" means the basic health benefits plan developed and approved by the Oklahoma Basic Health Benefits Board pursuant to this act.

SECTION 8. AMENDATORY 36 O.S. 1991, Section 6504, is amended to read as follows:

Section 6504. A. There is hereby created the Oklahoma Basic Health Benefits Board, to continue until July 1, ~~1996, in accordance with the provisions of the Oklahoma Sunset Law 1994.~~ 1994. The Until July 1, 1994, the Board shall determine and approve the terms and conditions of a state-certified, basic health benefits plan and provide for the promotion and administration of the plan in accordance with the provisions of this act. Beginning July 1, 1994,

the Oklahoma Health Care Authority shall assume the duties, responsibilities and authority of the Board.

B. The Board shall be composed of eleven (11) members who shall be appointed as follows:

1. One member shall be appointed by the President Pro Tempore of the Senate from an employer or business organization;

2. One member shall be appointed by the Speaker of the House of Representatives from an organization representing employees who lack health insurance; and

3. Nine members shall be appointed by the Governor, subject to confirmation by the Senate, one of whom shall be appointed from each of the following categories:

- a. a physician licensed to practice medicine in this state pursuant to the provisions of Section 481 et seq. of Title 59 of the Oklahoma Statutes and included on a list of nominees provided by the Oklahoma State Medical Association,
- b. an osteopathic physician licensed to practice osteopathic medicine in this state and included on a list of nominees provided by the Oklahoma Osteopathic Association,
- c. a chiropractic physician licensed to practice chiropractic in this state and included on a list of nominees provided by a recognized chiropractic association,
- d. a physical therapist licensed to practice in this state pursuant to the provisions of Section 887.1 et seq. of Title 59 of the Oklahoma Statutes and included on a list of nominees provided by the Oklahoma Chapter of the American Physical Therapy Association,

- e. a hospital administrator or a member of a hospital governing board included on a list of nominees submitted by the Oklahoma Hospital Association,
- f. a state official with responsibilities for delivery of health services,
- g. a state official with responsibilities for administration of purchasing functions,
- h. a person who has professional training and experience in health insurance, and
- i. a person who is licensed to practice law or as a public accountant or a certified public accountant in this state and has experience in fund management.

C. Members of the Board shall serve three-year terms and until their respective successors are appointed and qualified. Provided, of those members initially appointed by the Governor, three members shall serve for one (1) year, three members shall serve for two (2) years and three members shall serve for three (3) years, as designated by the Governor. A vacancy in a position on the Board shall be filled for the unexpired term in the same manner as the original appointment.

D. At the first meeting and annually thereafter, the Board shall elect a chairman, who shall preside over the meetings of the Board and perform such other duties as required by the Board; a vice-chairman, who shall perform the duties of the chairman in the absence of the latter or upon his inability or refusal to act; and a secretary, who shall keep minutes of all meetings and who shall certify to actions of the Board. The Board shall hold regular meetings at least once each quarter and may hold special meetings upon written notice of the chairman or by agreement of any five members of the board.

A majority of the members of the Board shall constitute a quorum for the transaction of business and for taking any official action.

Official action of the Board must have a favorable vote by a majority of the members present. No Board member shall be individually or personally liable for any action of the Board. The Board shall adopt rules and procedures to effectuate its purpose.

The Board shall act in accordance with the provisions of the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes, the Oklahoma Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes, and the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes.

E. The Board shall hire an Administrator who shall be in the unclassified service. The Administrator shall have supervisory, managerial or administrative health insurance experience in insurance underwriting, safety or loss prevention, claims management or claims adjustment. The Administrator shall act at the direction of and provide staff support to the Board. Office space and logistical support required by the Board shall be provided by the ~~Office of Public Affairs~~ Department of Central Services. The Attorney General shall provide the Board with legal advice and with assistance in drafting rules of the Board.

F. Members of the Board shall serve without compensation but shall be reimbursed for expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

SECTION 9. AMENDATORY 36 O.S. 1991, Section 6505, is amended to read as follows:

Section 6505. A. ~~The~~ Until July 1, 1994, the Oklahoma Basic Health Benefits Board shall have the following powers and duties:

1. Provide for the promotion and administration of the state-certified, basic health benefits plan;

2. Determine and approve minimum benefits consistent with the provisions of this act, and approve policies and contracts to be

offered and issued under the state-certified, basic health benefits plan, scope of services covered, initial premium rates, premium rate increases, coinsurance, deductibles and other benefit provisions;

3. Approve entities to issue the state-certified, basic health benefits plan;

4. Conduct a promotion campaign to acquaint employers and employees with the plan and encourage their participation;

5. Establish a grievance procedure, which shall be in accordance with the provisions of the Oklahoma Administrative Procedures Act, by which complaints of participants in the plan shall be heard;

6. Ensure that all policies or contracts, promotional materials and other printed materials developed and disseminated in connection with the plan are written in plain language and readily understandable by lay citizens of average intelligence who have neither medical nor legal training or expertise; and

7. Publish an annual report which shall include a summary of the costs to the Board to administer and promote the plan, the participation in the plan by employers and employees and their dependents, the benefits covered under the plan and premiums charged, and tax credits and refunds granted pursuant to this act and a summary of the most recent actuarial analysis of the plan as provided by the issuer. The annual report shall be submitted by February 1 of each year to the Governor, President Pro Tempore of the Senate and the Speaker of the House of Representatives.

B. ~~The~~ Until July 1, 1994, the Board shall be authorized to contract for:

- a. preparation of plan terms and conditions,
- b. planning and direction of promotion of the plan,
- c. issuance of the plan policy or contract, and
- d. such other functions deemed necessary by the Board to effectively manage its responsibilities.

Contracts with private entities shall be awarded by the Board pursuant to state competitive bidding procedures through the ~~Office of Public Affairs~~ Department of Central Services.

SECTION 10. AMENDATORY 36 O.S. 1991, Section 6506, is amended to read as follows:

Section 6506. A. 1. The Oklahoma Basic Health Benefits Board and its successor, the Oklahoma Health Care Authority, shall develop a basic health benefits plan which provides coverage for basic hospital and physician care and limited coverage for mental health care, substance abuse treatment and prescription drugs.

2. The plan shall not include coverage for the following:

- a. cosmetic surgery,
- b. chronic fatigue treatment, and
- c. obesity remediation.

B. The plan may include coverage for transplant procedures which shall be limited to kidney, cornea and bone marrow transplants.

C. The plan may, at the option of the carrier, exclude preexisting conditions for the first ninety (90) days of coverage. Subsequently, payments under the plan for treatment of a preexisting condition may be limited to benefits totalling Five Hundred Dollars (\$500.00) during the first year of coverage, One Thousand Dollars (\$1,000.00) during the second year of coverage and One Thousand Five Hundred Dollars (\$1,500.00) during the third year of coverage. Thereafter, normal policy limits may apply.

D. Prenatal care, as defined by the Board or Authority, shall be included in the plan and shall not be subject to any deductible, copayment, or exclusion as a preexisting condition. Provided, the Board or Authority may limit the maximum dollar amount of coverage for such care.

E. The plan shall be offered to eligible employees and their dependents through eligible employers. Eligible employers shall be

required to pay at least fifty percent (50%) of the full cost of the portion of the premium attributable to the eligible employee.

F. The plan shall provide minimum participation requirements for each employer which shall be as follows:

<u>Number of Employees</u>	<u>Participation in Plan</u>
3 - 8	100% of employees
9 - 14	all but 1
15 - 18	all but 2
19 - 20	all but 3
21 - 23	all but 4
24 - 25	all but 5
over 25	75% of employees

For purposes of this subsection, "employees" means the employer and eligible employees except for an employer or employee who is covered as a dependent under another group health insurance policy or plan.

G. The plan may provide for evidence of insurability and may apply underwriting standards, deductibles, copayments, and exclusions for preexisting conditions, as determined by the Board or Authority, which are more restrictive than those applied to other eligible employees, for any proprietorship, partnership or corporation which is comprised of two individuals or less. The Board and its successor, the Authority, may develop rules to prevent abuse by parties who form firms primarily for the purpose of qualifying as an eligible employer.

SECTION 11. AMENDATORY 36 O.S. 1991, Section 6507, is amended to read as follows:

Section 6507. A. The Oklahoma Basic Health Benefits Board or its successor, the Oklahoma Health Care Authority, shall approve entities to issue a policy or contract under which the state-certified, basic health benefits plan will be offered.

Notwithstanding any other provision of law, the issuers shall not be required to provide under said policy or contract benefits other

than those approved by the Board or the Authority. The issuers shall coordinate marketing of the plan with the promotion campaign conducted by the Board or the Authority.

B. Issuers shall not reduce benefits under the plan without prior approval by the Board or the Authority. Issuers shall not increase premium rates, fees or other charges by more than fifteen percent (15%) during any twelve-month period without prior approval of the Board or the Authority. The Board or the Authority may, from time to time, revoke the certification of any state-certified, basic health benefits plan for noncompliance by an issuer with any provisions of this act or rules of the Board or the Authority. Upon decertification, the issuer shall notify each employer and each policy holder of the revocation of the certification. An issuer may choose to discontinue participation in the plan upon ninety (90) days' prior notice in writing to the Board or the Authority and to each employer and policy holder.

C. Issuers shall assume all liability for maintaining adequate reserve funds and for payment of all claims under the plan. Issuers shall assume the liability for continuing risk required by the federal Consolidated Omnibus Budget Reconciliation Act (COBRA), as amended. Nothing in this act shall be construed to constitute a financial obligation or general obligation of the State of Oklahoma nor shall state funds be used to reserve for or pay losses incurred by the issuer.

D. 1. Any issuer may develop agreements with health care providers, to be known as network providers, to provide services under the plan and to receive payment for said services under terms and conditions prescribed by the issuer. The conditions may provide for lower deductibles and copayments for services provided by network providers and for reimbursement to nonnetwork providers who provide services for a patient referred by a network provider.

2. Any issuer may develop agreements with network providers whereby network providers contribute to the capitalization of reserves for the plan. Such agreements may provide that network providers accept provisional payments at a percentage of the allowable reimbursement as set by the issuer and that the balance of the allowable reimbursement be held in reserve until such time the issuer determines that reserves are sufficient to allow additional payments to said providers.

E. Any issuer may develop and administer a system of peer or utilization review for the purpose of reviewing services by and reimbursements to physicians and hospitals.

SECTION 12. AMENDATORY Section 2, Chapter 347, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-116), is amended to read as follows:

Section 1-116. When used in the Oklahoma Health Care Information System Act:

1. "Authority" means the Oklahoma Health Care Authority;
2. "Board" means the State Board of Health;
- ~~2.~~ 3. "Commissioner" means the Commissioner of Health;
- ~~3.~~ 4. "Department" means the State Department of Health;
- ~~4.~~ 5. "Health care providers" means a hospital or related institution licensed pursuant to Section 1-702 of Title 63 of the Oklahoma Statutes and nursing facilities licensed pursuant to Section 1-1903 of Title 63 of the Oklahoma Statutes;
- ~~5.~~ 6. "Third-party payor" means any entity, other than a purchaser, which is responsible for payment either to the purchaser or the health care provider for health care services rendered by the health care provider;
- ~~6.~~ 7. "Public-supported provider" means any public or private entity supported in whole or in part by federal or state funds, or any health care provider contracting with the state for providing health care services including, but not limited to, Medicaid;

~~7.~~ 8. "Identifying information" means a program identifying number assigned for purposes of statistical and data analysis, which protects and maintains patient and physician anonymity. Identifying information shall remain confidential as provided in Section ~~6~~ 1-120 of this ~~act~~ title;

~~8.~~ 9. "Information providers" means and includes health care providers, third-party payors or public-supported providers required to report or submit information to the Division of Health Care Information pursuant to the Oklahoma Health Care Information System Act;

~~9.~~ 10. "Division" means the Division of Health Care Information; and

~~10.~~ 11. "Health care information system" means the system for receipt, collection, analysis, evaluation, processing, utilization and dissemination of health care data established and maintained by the Division of Health Care Information pursuant to the Oklahoma Health Care Information System Act.

SECTION 13. AMENDATORY Section 4, Chapter 347, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-118), is amended to read as follows:

Section 1-118. A. The Division of Health Care Information is hereby created within the State Department of Health. Effective July 1, 1994, the Division, and all employees, property, records, obligations and encumbrances of the Division shall be transferred to the Oklahoma Health Care Authority.

B. The Division shall:

1. Collect health care information from information providers;
2. Establish and maintain a uniform health care information system;
3. Analyze health care data submitted;
4. Provide for dissemination of health care data to users and consumers;

5. Provide for the training and education of information providers regarding processing and maintenance and methods of reporting required information;

6. Require that health care data be submitted to the Department Division or its agent by all information providers;

7. Provide for the exchange of information with other agencies or political subdivisions of this state, the federal government or other states, or agencies thereof;

8. Contract with other public or private entities for the purpose of collecting, processing or disseminating health care data; and

9. Build and maintain the data base.

C. 1. The State Board of Health shall adopt rules governing the acquisition, compilation and dissemination of all data collected pursuant to the Oklahoma Health Care Information System Act. The rules adopted by the State Board of Health shall remain in effect until the promulgation of new rules by the Authority.

2. The rules shall include, but not be limited to:

- a. adequate measures to provide system security for all data and information acquired pursuant to the Oklahoma Health Care Information System Act,
- b. adequate procedures to ensure confidentiality of patient records,
- c. charges for users for the cost of data preparation for information that is beyond the routine data disseminated by the office, and
- d. time limits for the submission of data by information providers.

D. The Division shall adopt standard nationally recognized coding systems to ensure quality in receiving and processing data.

E. The Division may contract with an organization for the purpose of data analysis. Any contract or renewal thereof shall be

based on the need for, and the feasibility, cost and performance of, services provided by the organization. The Division shall require any data analyzer at a minimum to:

1. Analyze the information; and
2. Prepare policy-related and other analytical reports as determined necessary for purposes of this act.

F. The Board, until July 1, 1994, and the Authority beginning July 1, 1994, shall have the authority to set fees and charges with regard to the collection and compilation of data requested for special reports, and for the dissemination of data. These funds, if collected pursuant to the authority of the Board, shall be deposited in the Oklahoma Health Care Information System Revolving Fund account. These funds, if collected pursuant to the authority of the Oklahoma Health Care Authority, shall be deposited in the Oklahoma Health Care Authority Revolving Fund.

G. The Division may accept grants or charitable contributions for use in carrying out the functions set forth in the Oklahoma Health Care Information System Act from any source. These funds shall be deposited in the Oklahoma Health Care Information System Revolving Fund account until July 1, 1994, and beginning July 1, 1994, shall be deposited in the Oklahoma Health Care Authority Revolving Fund.

SECTION 14. AMENDATORY Section 5, Chapter 347, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-119), is amended to read as follows:

Section 1-119. A. 1. The Division of Health Care Information shall, with the advice of the Health Care Information Advisory Committee and in accordance with the rules of the State Board of Health or successor rules of the Authority, collect health care information from information providers.

2. The information to be collected about information providers may include, but shall not be limited to:

- a. financial information including, but not limited to, consumption of resources to provide services, reimbursement, costs of operation, revenues, assets, liabilities, fund balances, other income, rates, charges, units of service, wage and salary data,
- b. service information including, but not limited to, occupancy, capacity, and special and ancillary services,
- c. physician profiles in the aggregate by clinical specialties and nursing services, and
- ~~e.~~ d. discharge data including, but not limited to, completed discharge data sets or comparable information for each patient discharged from the facility after the effective date of this act.

3. The Division shall establish a phase-in schedule for the collection of health care data. The phase-in schedule shall provide that prior to January 1, 1994, only data currently collected shall be required to be submitted to the Division. Thereafter, in the collection of health care data, the Division shall whenever possible utilize existing health data resources and avoid duplication in the collection of health care data.

4. Except as otherwise authorized by the provisions of the Oklahoma Health Care Information System Act, the provisions of the Oklahoma Health Care Information System Act shall not be construed to lessen or reduce the responsibility of the information provider with regards to:

- a. the accuracy of the data or information submitted,
- b. liability for release of the data or information to the Division, data processor or as otherwise authorized by this section, or
- c. the preservation of confidentiality of such data or information until submitted to the Division.

B. The University of Oklahoma College of Public Health, the Department of Human Services and the Department of Mental Health and Substance Abuse Services are hereby authorized to have access to the health care information system established pursuant to the Oklahoma Health Care Information System Act, in accordance with a mutual interagency agreement between the State Department of Health or the Oklahoma Health Care Authority and each specified entity on an individual basis.

SECTION 15. AMENDATORY Section 6, Chapter 347, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-120), is amended to read as follows:

Section 1-120. A. Except as otherwise provided by Section ~~5~~ 1-119 of this ~~act~~ title, the individual forms, computer tapes, or other forms of data collected by and furnished to the Division of Health Care Information or to a data processor pursuant to the Oklahoma Health Care Information System Act shall be confidential and shall not be public records as defined in the Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes.

B. After approval by the State Department of Health or the Oklahoma Health Care Authority, the compilations prepared for release or dissemination from the data collected, except for a report prepared at the request of an individual data provider containing information concerning only its transactions, shall be public records. The Division shall establish a Health Care Information Advisory Committee as provided in Section ~~8~~ 1-122 of this ~~act~~ title, to assist with determinations related to data collection, and information to be released and disseminated to the public.

C. The confidentiality of identifying information is to be protected and the pertinent statutes, rules and regulations of the State of Oklahoma and of the federal government relative to confidentiality shall apply.

D. Identifying information shall not be disclosed, and shall not be used for any purpose except for the creation and maintenance of anonymous medical case histories for statistical reporting and data analysis.

E. The Division or other state agency receiving information pursuant to the Oklahoma Health Care Information System Act is prohibited from taking any administrative, investigative or other action with respect to any individual on the basis of the identifying information. The Division data analyzer or other state agency receiving information pursuant to the Oklahoma Health Care Information System Act is further prohibited from identifying, directly or indirectly, any individual in any report of scientific research or long-term evaluation, or otherwise disclosing identities in any manner.

F. Except as otherwise authorized by the Oklahoma Health Care Information System Act, identifying information submitted to the Division which would directly or indirectly identify any person shall not be disclosed by the Division either voluntarily or in response to any legal process, unless directed to by a court of competent jurisdiction, granted after application showing good cause therefor with notice of the hearing to the Division. In assessing good cause the court shall only grant such application if it seeks to challenge the statistical efficacy of a finding made by the Division or alleges a violation of confidentiality by the Division. Such application shall then be granted only when the public interest and the need for disclosure outweighs the injury to the person, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

G. Any person who submits or receives data as required or authorized by the Oklahoma Health Care Information System Act shall be immune from liability in any civil action for any action taken as required by the provisions of the Oklahoma Health Care Information System Act. This immunity is in addition to any other immunity for the same or similar acts to which the person is otherwise entitled.

SECTION 16. AMENDATORY Section 7, Chapter 347, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-121), is amended to read as follows:

Section 1-121. The State Department of Health, until July 1, 1994, and thereafter, the Oklahoma Health Care Authority, shall issue reports no less than annually which may include recommendations to the Oklahoma Legislature for any change in the statutes needed to further the purposes of the Oklahoma Health Care Information System Act. The initial report shall be submitted by January 1, 1993. The initial report shall include but not be limited to an implementation schedule for the development and completion of the health care information system and the status of compliance with the health care information and data submission requirements of the Division. The system shall be fully functional and operative by January 1, 1995. Subsequent reports may include plans for expanding the uniform data base to other medical providers including, but not limited to, all licensed health care professionals or entities providing health care services.

SECTION 17. AMENDATORY Section 8, Chapter 347, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-122), is amended to read as follows:

Section 1-122. A. The Commissioner of Health shall appoint a Health Care Information Advisory Committee to advise and assist the Division of Health Care Information with determinations related to data elements to be collected, reporting requirements, and the release and dissemination of information to the public. The

membership of the Committee shall remain in office upon the transfer of the responsibility for the Oklahoma Health Care Information Act to the Oklahoma Health Care Authority. Beginning July 1, 1994, any vacancies in office or additional appointment shall be made by the Authority.

B. The membership of the Health Care Information Advisory Committee shall include, but not be limited to, the following persons or their designees:

1. The president of the Oklahoma State Chamber of Commerce;
2. The president of the Oklahoma Hospital Association;
3. The president of the Oklahoma State Medical Association;
4. The president of the Oklahoma Osteopathic Association;
5. The president of the Oklahoma AFL-CIO;
6. The president of a statewide health care consumer coalition;
7. The president of the Association of Oklahoma Life Insurance

Companies; and

8. The president of the Oklahoma Nursing Home Association.

C. The Division, with the approval of the Commissioner of Health or the Authority, may appoint health care data technical advisory committees as needed and appropriate to assist in the development of implementation methods and in the interpretation and evaluation of the data received pursuant to the Oklahoma Health Care Information System Act.

SECTION 18. AMENDATORY Section 9, Chapter 347, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-123), is amended to read as follows:

Section 1-123. There is hereby created in the State Treasury a revolving fund for the State Department of Health to be designated the "Oklahoma Health Care Information System Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies received by the Division from state agencies, boards, commissions and institutions and from

counties, cities and towns for services rendered or as otherwise provided by law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Division for the furtherance of the Oklahoma Health Care Information System Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

Effective July 1, 1994, this fund shall be dissolved and all monies therein shall be transferred to the Oklahoma Health Care Authority Revolving Fund.

SECTION 19. AMENDATORY 70 O.S. 1991, Section 625.1, is amended to read as follows:

Section 625.1 There is hereby established the Oklahoma Rural Medical Education Loan and Scholarship Fund. The fund shall be administered by the Physician Manpower Training Commission under the provisions of Section 625.9 of this title until July 1, 1994.

Effective July 1, 1994, this fund shall be dissolved and all monies therein shall be transferred to the Oklahoma Health Care Authority Revolving Fund.

SECTION 20. AMENDATORY 70 O.S. 1991, Section 625.2, is amended to read as follows:

Section 625.2 The Physician Manpower Training Commission or its successor, the Oklahoma Health Care Authority, shall be authorized and empowered to grant scholarships to qualified students who are bona fide residents of the State of Oklahoma and who would not otherwise have funds necessary to finance the cost of a program of study leading to the Degree of Doctor of Medicine, or to the Degree of Doctor of Osteopathic Medicine, to be granted by an accredited and recognized college of medicine or college of osteopathic medicine.

SECTION 21. AMENDATORY 70 O.S. 1991, Section 625.3, is amended to read as follows:

Section 625.3 The terms and conditions governing the scholarships shall be as prescribed and formulated by the Physician Manpower Training Commission or its successor, the Oklahoma Health Care Authority, but shall include the condition that each recipient, upon completion of his course of study, shall repay his scholarship by practicing his profession in a rural community in Oklahoma having a population of seven thousand five hundred (7,500) persons or less according to the last preceding United States Decennial Census and having a need therefor, as determined by the Commission or the Authority, for one (1) year for each one (1) year the scholarship is financed; provided, however, that the recipient will be given no credit for payment and reduction of said obligation by serving in the defined rural communities for a period less than two (2) years. The contract shall provide that in the event the recipient breaches the terms of the contract by not serving the designated community for the specified period of time he shall pay liquidated damages in an amount agreed upon by the Commission and the recipient and representing a reasonable estimate of the damage or loss to the community or the state. Said damages shall not exceed one hundred percent (100%) of the principal. This provision will apply only to those new loan recipients who accept the assistance after July 1, 1977. After payment of the liquidated damages, repayment of the principal may be made in cash with interest at the rate of twelve percent (12%) per annum, said interest to accrue from the date each payment of funds pursuant to the scholarship is made. No interest however shall accrue during any one period of time that the recipient thereof is required to serve in the Armed Forces of the United States or during any period of internship.

SECTION 22. AMENDATORY 70 O.S. 1991, Section 625.4, is amended to read as follows:

Section 625.4 The Commission shall promulgate and adopt such rules and regulations as may be necessary to carry out the

provisions of this act. The rules shall remain in effect until the promulgation of rules by the Oklahoma Health Care Authority. The Commission or the Authority shall prescribe the form and regulate the submission of applications for scholarship; conduct conferences and interviews with applicants; determine the eligibility of applicants; allow or disallow all applications for scholarships or renewal of scholarships; contract, increase, decrease, terminate and otherwise regulate all grants for scholarships and their repayment in cash or services; and manage, operate and control all funds and property appropriated or otherwise contributed for this purpose. The Commission or the Authority may acquire property or money by the acceptance of gifts, grants, bequests or devise, and may contract with the federal government in order to secure the benefit of any federal program consistent with the provisions of this act. Any monies or property acquired by the Commission shall be transferred to the Authority by July 1, 1994. Monies received by the Commission in repayment of scholarships granted from appropriated funds shall be deposited with the State Treasurer who shall place the same to the credit of the Commission in depository funds to be known as the "Rural Medical Education Scholarship Fund" and the "Community Physician Education Scholarship Fund" depending on the program in which the recipient participated, under and subject exclusively to the control of the Commission for the purpose of fulfilling and accomplishing the conditions and purposes of the Physician Manpower Training Commission. All monies so collected and deposited in the State Treasury as aforesaid shall constitute a continuing fund, shall not be subject to fiscal year limitations, and the unexpended balance shall at all times be available for expenditures for the purposes and in the manner and form provided by this act. All funds and property, and income therefrom, received by the Commission through the acceptance of gifts, grants, bequests or devise shall be held by the Commission in trust, and may be sold, transferred,

invested and reinvested by the Commission in accordance with the provisions of the Oklahoma Trust Act, and all such funds and property, and income therefrom, shall be used by the Commission in fulfilling and accomplishing the conditions and purposes of the Physician Manpower Training Commission. Effective July 1, 1994, all monies collected by the Commission and deposited pursuant to this section shall be transferred to the Oklahoma Health Care Authority Revolving Fund.

SECTION 23. AMENDATORY 70 O.S. 1991, Section 625.4a, is amended to read as follows:

Section 625.4a There is hereby created in the State Treasury a revolving fund for the Physician Manpower Training Commission to be designated the "Physician Manpower Training Commission Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of all payments received by the Commission pursuant to Sections 625.3 and 625.10a of this title and all payments received by the Commission pursuant to the Allied Health Placement Program and the Nursing Home Demonstration Program. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Physician Manpower Training Commission for any expenses incurred in the implementation of its duties. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. Effective July 1, 1994, this fund shall be dissolved and all monies therein shall be transferred to the Oklahoma Health Care Authority Revolving Fund.

SECTION 24. AMENDATORY 70 O.S. 1991, Section 625.5, is amended to read as follows:

Section 625.5 (a) An applicant may be eligible for the award of a scholarship when the following conditions are met:

(1) That ~~he~~ the applicant desires a scholarship to any accredited school of medicine or school of osteopathic medicine in the United States of America;

(2) That ~~he~~ the applicant is a bona fide resident of Oklahoma;

(3) That ~~his~~ personal financial resources of the applicant are such that, in the absence of scholarship aid, ~~he~~ the applicant will be unable to pursue the program of study which ~~he~~ the applicant desires;

(4) That ~~he~~ the applicant is a person of good moral character;

(5) That ~~he~~ the applicant has successfully completed the program of instruction prerequisite for admission to the program of study provided for in this act and has applied for admission to a medical school;

(6) That ~~he~~ the applicant has capacity to profit by the course of study for which ~~he~~ the applicant seeks aid;

(7) That ~~he~~ the applicant desires to practice medicine in a rural community in Oklahoma; and

(8) That ~~he~~ the applicant submits proof that he has not accepted or will not accept any other scholarship assistance which has a conflicting service obligation requirement.

In determining an applicant's capacity to profit by the course of study ~~he~~ the applicant desires, the Commission or Authority shall consider ~~his~~ the applicant's previous scholastic record, the results of examinations conducted under the provisions of this act, and the results of interviews and such other tests or examinations which the Commission or Authority may deem advisable. In establishing an applicant's financial need, the Commission or the Authority shall conduct a thorough and complete investigation of the financial resources of the applicant and ~~his~~ family of the applicant.

(b) The amount of each scholarship grant shall not exceed Six Thousand Dollars (\$6,000.00) per academic year for students engaged in their first year of study, or equivalent number of terms

completed in an education program in a given period of months. The amount of each scholarship grant shall not exceed Twelve Thousand Dollars (\$12,000.00) per academic year for students engaged in their second, third or fourth year of study, or equivalent number of terms completed in an education program in a given period of months.

(c) The method of payment of funds to each recipient of a scholarship grant shall be in accordance with rules formulated by the Commission or Authority governing the grants for each type of scholarship. The rules of the Commission shall remain in effect until new rules are promulgated by the Authority.

(d) Each scholarship is renewable annually for the number of years required to complete the course of study in which the recipient is engaged. The Commission or the Authority shall grant such an annual renewal only upon the recipient's application and upon the Commission's or Authority's finding that:

(1) The recipient has completed successfully the work of the preceding year and presented evidence that ~~he~~ the student is a student in good standing;

(2) ~~He~~ The student remains a resident of Oklahoma; and

(3) ~~His~~ The student's financial situation continues to warrant the award of a scholarship under the standards set forth in this act.

(e) The Commission or the Authority shall make an annual report to the Governor and Legislature on the activities of the Commission. This report shall include the names of the recipients of the scholarships, the amount of the scholarship awards, an accounting of the funds expended on scholarships and on the administration of the program and a budget requesting the funds necessary for the operation of the Commission or the Authority. The report shall also include an accounting of repayments of scholarships, whether by services or in cash including interest.

SECTION 25. AMENDATORY 70 O.S. 1991, Section 625.6, is amended to read as follows:

Section 625.6 Each applicant, before being granted a scholarship, shall enter into a contract with the Commission or the Authority agreeing to the terms and conditions upon which the scholarship shall be granted to him. Said contract shall include such terms and provisions as will carry out the full purpose and intent of this act and the form thereof shall be prepared and approved by the Attorney General. Said contracts shall be signed by the Secretary on behalf of the Commission and by the applicant. The Commission or the Authority is hereby vested with full and complete authority and power to sue in its own name any applicant for any balance due the Commission on any contract. The Commission or the Authority shall have authority to cancel any contract made between it and any recipient of a scholarship upon cause deemed sufficient by the Commission or the Authority.

SECTION 26. AMENDATORY 70 O.S. 1991, Section 625.9, is amended to read as follows:

Section 625.9 A. The administration of the Oklahoma Rural Medical Education Loan and Scholarship Fund is hereby transferred to the Physician Manpower Training Commission as established by law. All the powers, duties, responsibilities, rules and regulations and functions of the Board of Trustees of the Oklahoma Rural Medical Education Scholarship Fund are hereby transferred to the Physician Manpower Training Commission and The Board of Trustees of the Oklahoma Rural Medical Education Scholarship Fund is hereby abolished and terminated.

B. Effective July 1, 1994, the Rural Medical Education Loan and Scholarship Fund shall be dissolved and all monies therein shall be transferred to the Oklahoma Health Care Authority Revolving Fund. All the powers, duties, responsibilities, rules and regulations and functions of the Physician Manpower Training Commission pursuant to

subsection A of this section shall be terminated and all such functions shall be assumed by the Oklahoma Health Care Authority.

SECTION 27. AMENDATORY 70 O.S. 1991, Section 625.10a, is amended to read as follows:

Section 625.10a The Physician Manpower Training Commission or its successor, the Oklahoma Health Care Authority, is hereby authorized and empowered to establish and administer cost-sharing scholarships and loan fund programs which shall provide for state assistance to and participation with community physician education and scholarship trust funds which are selected and approved by the Commission or the Authority. Said state assistance and participation shall be on a state and community matching formula basis for the funding of the educational costs, fees and charges of a selected and qualified student in good standing and who is duly enrolled in an accredited college of medicine or college of osteopathic medicine and pursuing a course of study leading to the degree of Doctor of Medicine or to the degree of Doctor of Osteopathic Medicine. Said student shall be a bona fide resident of the State of Oklahoma who desires and agrees to practice his profession on completion of the course of study and training required for licensure and certification in the community providing the initial funds to be matched by the state funds. Communities shall deposit the initial trust funds with the Physician Manpower Training Commission or its successor, the Oklahoma Health Care Authority, to be administered and matched by the Commission or the Authority for the education of selected and qualified students to serve and to practice in the communities with trust funds so established for that purpose with the Commission or the Authority. The Commission or the Authority shall aid and advise communities in the selection of qualified students to participate in a given community scholarship program and the Commission or its successor shall approve the selection of a given student for a particular

community physician education scholarship trust fund matching program. The Commission or its successor, the Oklahoma Health Care Authority, shall determine the percentage share for the state in the scholarship matching program with a given community to educate a given and duly selected student on the basis of the extent of need of the community and its surrounding area for the services of a practicing physician, the amount of the initial trust funds the community has raised and deposited in the physician education scholarship trust fund that is duly established and the matching funds schedule developed by the Commission or the Authority and based upon both the population of the community determined by the latest Federal Decennial Census and the estimated median family annual income level as determined on the basis of the estimates of the Oklahoma Department of Commerce. The state matching assistance and participation in a given scholarship trust fund program shall not exceed seventy-five percent (75%) of the total amount calculated to be necessary to fund the costs of a course of study for the degree of Doctor of Medicine or the degree of Doctor of Osteopathic Medicine as determined annually by the Commission or the Authority. Repayment of the total amount of the scholarship by the student on completion of his course of study and on the establishment of his practice in the community shall be made to the state fund and to the community trust fund in accordance with the percentage and total amounts contributed by the state and by the community to the matching scholarship trust fund program and in accordance with the provisions of Section 625.5 of this title and contract requirements of Section 625.6 of this title which shall apply in all cases to students participating in said community physician education scholarship trust fund programs administered by the Commission or the Authority with the exception of the maximum amount allowable in payment to the student which shall be based on an annual review of the costs, fees and charges of the school of medicine or school of

osteopathic medicine in which the student is enrolled and participating which shall be made by the Commission or the Authority.

The procedures, terms and conditions governing the scholarships and how they are administered shall be as prescribed and formulated by the Physician Manpower Training Commission and its successor, the Oklahoma Health Care Authority, but shall include the following:

1. Communities desiring to participate in a loan and scholarship program shall select a student who meets the requirements for participation and give notice to the Commission or the Authority.

2. The Commission or the Authority shall aid and advise communities in the selection of qualified students to participate in a given community loan and scholarship program.

3. The communities shall deposit with the Commission or the Authority the initial year scholarship funds provided by the community which funds shall be a percentage of the total educational and associated costs of the student in the course of study in an accredited college of medicine or college of osteopathic medicine and which funds are to be used in the education of the selected student.

4. ~~The~~ Until July 1, 1994, the Commission shall review and approve the selection of a given student and shall then match the initial community funds with state funds from the Oklahoma Community Physician Education Loan and Scholarship Program Fund in the amount needed to meet the total cost for educating the student for one (1) year as agreed by the Commission and the community in each particular case. Effective July 1, 1994, the Oklahoma Health Care Authority shall review and approve the selection of a given student and shall then match the initial community funds with funds from the Oklahoma Health Care Authority Revolving Fund in the amount needed

to meet the total cost for educating the student for one (1) year as agreed by the Authority and the community in each particular case.

5. The Commission or its successor, the Oklahoma Health Care Authority, shall determine the percentage share for the state in the loan and scholarship program with a given community to educate a selected student on the basis of:

- a. the extent of need of the community and its surrounding area for the services of a practicing physician;
- b. the amount of the initial trust funds the community has raised and deposited with the Commission or the Authority for the education of a selected student;
- c. the population of the community which shall be determined on the basis of the current estimates made by the Oklahoma Department of Commerce.

6. The state matching assistance and participation by the Commission or the Authority in a given loan and scholarship program for a particular student shall not exceed seventy-five percent (75%) of the total amount calculated to be necessary to fund one (1) year of study for the degree of Doctor of Medicine or the degree of Doctor of Osteopathic Medicine as determined annually by the Commission at the school of medicine or osteopathic medicine in which the selected student is enrolled.

7. Each scholarship recipient, upon completion of his course of study, shall repay his loan and scholarship to the state and to the community and receive forgiveness on repayment of the funds from the state and from the community by practicing his profession in the community in Oklahoma providing the initial funds at a minimum for one (1) year for each Five Thousand Dollars (\$5,000.00) the community and the state financed the scholarship program for the student; provided, however, that the recipient will be given no credit for payment, repayment and reduction of said obligation to

the community and the state by serving the given community for a period less than two (2) years or, when approved by the Commission or the Authority in agreement with the community and terms of the contracts involved, repayment may be made in cash with interest at the rate of twelve percent (12%) per annum, said interest to accrue from the date each payment of funds pursuant to the loan and scholarship program is made. In addition, should a recipient who accepts financial assistance after July 1, 1977, elect not to perform his obligated service in the sponsoring community, the agreed upon sum denoted as liquidated damages in the contract shall be assessed the recipient. No interest shall accrue on the principal during any one period of time that the recipient thereof is required to serve in the Armed Forces of the United States, or during his internship or residency, if in a primary care area and the required service, internship or residency does not exceed four (4) years. Provided that no interest shall accrue for six (6) months following each of the above exceptions.

Each student who applies to participate in a community and state matching loan and scholarship program shall enter into a contract administered by the Commission or the Authority on behalf of the state and a given community which has provided the initial scholarship funds to educate a selected student. The contract shall be between the State of Oklahoma and the selected student by which contract the student agrees to return to the community which provided the initial loan and scholarship funds and to practice his profession, on completion of the course of study and training required for licensure and certification, for the number of years for which the student received assistance from the community and the state and in accordance with the conditions specified in the contract agreed to by the student and the given community which selected the student. ~~Any~~ Until July 1, 1994, any repayment of the total amount of the scholarship or any portion thereof as provided

in this act and in the contract between the state and the student shall be made to the state deposited into the Community Matching Loan and Scholarship Repayment Revolving Fund hereby created in the State Treasury. Effective July 1, 1994, this fund shall be dissolved and all monies therein shall be transferred to the Oklahoma Health Care Authority Revolving Fund. Beginning July 1, 1994, any repayments as provided for in this section shall be made to the state and deposited in the Oklahoma Health Care Authority Revolving Fund. The community portion of any repayment monies deposited in said fund shall be withdrawn from the revolving fund and returned to the community on request or, if the community so chooses, said repayment monies shall be held available in said fund for reallocation by the community and the state to the ~~Community Physician Education Loan and Scholarship Program Fund~~ appropriate fund, as provided for in this section, to educate another student selected by the community and approved by the Commission or the Authority. The form of the contracts shall be prepared and approved by the Attorney General. The Commission, or its successor, is hereby vested with full and complete authority and power to sue in its own name any applicant for any balance due the Commission or the Authority for repayment of the scholarship on any contract or for failure by the applicant to fulfill the terms of his contract in any way. Said contracts shall be signed by the Chairman of the Commission or Authority and by the student for and by a representative of the community which selected the student. The Commission or Authority shall have authority to cancel the contract it makes between the Commission or the Authority and any recipient of a scholarship upon cause deemed sufficient by the Commission or the Authority.

SECTION 28. AMENDATORY 70 O.S. 1991, Section 625.11, is amended to read as follows:

Section 625.11 A. There is hereby created and established the Oklahoma Community Physician Education Scholarship Program Fund which fund shall be administered by the Physician Manpower Training Commission for the purposes of providing the state matching funds assistance for scholarship programs with given communities. ~~The~~ Until July 1, 1994, the Commission shall be empowered to contract for services with any state agencies, institutions or any public or private corporation involved in and conducting programs in physician manpower placement in order that the Commission may perform its functions in an efficient and timely fashion. Effective July 1, 1994, this fund shall be dissolved and all monies therein shall be transferred to the Oklahoma Health Care Authority Revolving Fund.

B. Effective July 1, 1994, administration of the functions provided for in subsection A of this section shall be assumed by the Oklahoma Health Care Authority.

SECTION 29. AMENDATORY 70 O.S. 1991, Section 625.12, is amended to read as follows:

Section 625.12 A. A student may be eligible to apply for and be granted a scholarship under the community and state matching program when the following conditions are met:

1. That the student desires a scholarship to cover the costs and expenses of pursuing the degree of Doctor of Medicine or the degree of Doctor of Osteopathic Medicine at any accredited school of medicine or school of osteopathic medicine in the United States of America;

2. That the student is a bona fide resident of the State of Oklahoma;

3. That the student desires and agrees to practice his or her profession in the community in Oklahoma providing the initial funds and subject to the terms and conditions of the contract between the student and the community and the contract between the student and the state;

4. That the student is a person of good moral character;

5. That the student has a capacity to profit by the course of study for which he or she seeks aid;

6. That the student has successfully completed the program of instruction prerequisite for admission to or continuation in the program of study provided for in this act and has applied and been accepted or is currently a student at an accredited school of medicine or school of osteopathic medicine;

7. That the personal financial resources of the student are such that he can demonstrate need for assistance to pursue successfully the course of study in which ~~he~~ the student is engaged; and

8. That the student submits proof that he or she has not accepted or will not accept any other scholarship assistance which has a conflicting service obligation requirement.

In determining an applicant student's capacity to profit by the course of study he desires to pursue, the Commission or its successor, the Oklahoma Health Care Authority, shall consider ~~his~~ the student's previous scholastic record, the results of examinations conducted under the provisions of this act, and the results of interviews and such other tests or examinations which the Commission or Authority may deem advisable.

In establishing an applicant student's financial need, the Commission or the Authority shall conduct a thorough and complete investigation of the financial resources of the applicant and his family.

B. The method of payment of funds to each student participating in the scholarship program shall be in accordance with rules formulated by the Commission or Authority governing the grants for each type of scholarship involved. The rules of the Commission shall remain in effect until the promulgation of new rules by the Authority.

C. Each scholarship shall be renegotiated annually by the Commission or the Authority to determine if a change has occurred in the ability of the community to match funds at the agreed level or if a change has occurred in the student's financial need or desire to practice in the community providing the initial funds. Each scholarship may be renewed annually for the number of years required to complete the course of study in which the recipient is engaged. The Commission or the Authority shall grant such an annual renewal only upon the recipient's application and upon the Commission's or Authority's finding that the student has completed successfully the work of the preceding year and presented evidence that ~~he~~ the student is a student in good standing, and that he or she remains a resident of Oklahoma.

SECTION 30. AMENDATORY Section 19, Chapter 324, O.S.L. 1992 (70 O.S. Supp. 1992, Section 625.13), is amended to read as follows:

Section 625.13 A. There is hereby created the "Community Match Rural Scholarship Incentive Program" which shall be conducted and administered by the Physician Manpower Training Commission, until July 1, 1994. Effective July 1, 1994, this fund shall be dissolved and all monies therein shall be transferred to the Oklahoma Health Care Authority Revolving Fund. Effective July 1, 1994, all responsibility for this program shall be assumed by the Oklahoma Health Care Authority. The purpose of this program is to provide for the fair and necessary distribution of funds allocated to it by the Legislature to provide monies to the following programs under the Physician Manpower Training Commission or Oklahoma Health Care Authority:

1. The Community Matching Intern/Resident Program;
2. The Oklahoma Rural Medical Education Loan Scholarship Program;

3. The Family/General Practice Resident Rural Scholarship Loan Program, created pursuant to this section; and

4. The Family/General Practice Residency Grant Program, created pursuant to this section.

~~The~~ Until July 1, 1994, the Physician Manpower Training Commission is hereby authorized to distribute such monies to the funds specified in Sections 625.1, 625.4a and 697.18 of this title necessary to fund the programs specified in this section.

B. The Physician Manpower Training Commission shall establish and administer a Family/General Practice Resident Rural Scholarship Loan Program for the purpose of assisting Oklahoma's rural communities by providing financial assistance through a scholarship loan forgiveness program to residents enrolled in an accredited Family Practice or General Practice residency program. Effective July 1, 1994, administration of this program shall be assumed by the Oklahoma Health Care Authority. The Commission or its successor the Oklahoma Health Care Authority, shall establish the eligibility standards, the amount of the loan not to exceed One Thousand Dollars (\$1,000.00) per month, the service obligation of the recipient of the loan, and any penalties related to the breach of the service contract or failure to repay such loan plus interest and penalty.

C. The Physician Manpower Training Commission shall establish and administer a Family/General Practice Residency Grant Program for the purpose of assisting Oklahoma's rural communities by providing financial assistance through a grant program to residents enrolled in an accredited Family Practice or General Practice residency program. Effective July 1, 1994, administration of this program shall be assumed by the Oklahoma Health Care Authority. The Commission or the Authority shall establish the eligibility standards, the amount of the grant not to exceed Five Thousand Dollars (\$5,000.00) per year, up to three (3) years, the program obligations of the recipient of the grant, and any penalties related

to the breach of the grant obligations or failure to repay the grant plus interest.

SECTION 31. AMENDATORY Section 22, Chapter 324, O.S.L. 1992 (70 O.S. Supp. 1992, Section 625.14), is amended to read as follows:

Section 625.14 The Physician Manpower Training Commission or its successor, the Oklahoma Health Care Authority, shall establish and administer cost-sharing programs for internship and residency physician training, which Commission or Authority shall provide for state assistance by sharing the cost on a percentage basis, as may be prescribed by law or as determined by the Commission or the Authority, of the salary, fringe benefits, training and program administration of the interns and residents as may be arranged by contract for reimbursement with an accredited and approved hospital and accredited clinical programs throughout the state in cooperation with the University of Oklahoma College of Medicine and the University of Oklahoma College of Medicine at Tulsa, which physician training institutions in the state shall serve as the administrative agent for internship and residency programs which are located in hospitals and clinical training programs throughout the state, which programs are affiliated with said institutions and approved for funding by the Commission or the Authority. The Commission or the Authority shall conduct the planning, coordination and selection of said training programs to assure the effective and efficient operation of these programs. Not less than fifty percent (50%) of the subsidy for these programs shall be used in the training of primary health care and family practice physicians for the rural and medically underserved areas of the state. Provided that such subsidy may be used for the primary purpose of increasing the total number of residencies funded by the State of Oklahoma, wherever located within the state, during that period in which residency programs are being established in rural areas; provided further,

that as said residency programs are established and accredited in rural hospitals, residency positions in such programs shall be first provided for by the Commission or the Authority. The Commission or the Authority shall present a report to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate within one (1) month of the beginning of each regular legislative session on the operation of the programs including the progress made in accomplishing the goals of physician training as to type of specialties and manpower placement of the kind necessary to provide adequate health care to the people throughout the State of Oklahoma. The subsidy to the participating hospital, clinical situation or training institution per resident or intern shall not exceed any maximum or minimum amount as may be prescribed by law or as determined by the Commission or the Authority. The actual amount of subsidy for physician training program situations shall be based upon a determination by the Commission or the Authority of:

1. The type of primary care residency and internship programs involved and being conducted;
2. The extent of reimbursement available through third-party payers and all other sources; and
3. The program and salary costs incurred in the given training situation.

SECTION 32. AMENDATORY 70 O.S. 1991, Section 697.2, as amended by Section 20, Chapter 324, O.S.L. 1992 (70 O.S. Supp. 1992, Section 697.2), is amended to read as follows:

Section 697.2 A. There is hereby re-created, until July 1, 1994, the Physician Manpower Training Commission, hereafter referred to as the Commission, to establish and administer cost-sharing programs for internship and residency physician training, which Commission shall provide for state assistance by sharing the cost on a percentage basis, as may be prescribed by law or as determined by the Commission, of the salary, fringe benefits, training and program

administration of the interns and residents as may be arranged by contract for reimbursement with an accredited and approved hospital and accredited clinical programs throughout the state in cooperation with the Oklahoma State University College of Osteopathic Medicine, which physician training institutions in the state shall serve as the administrative agent for internship and residency programs which are located in hospitals and clinical training programs throughout the state, which programs are affiliated with said institutions and approved for funding by the Commission. The Commission shall conduct the planning, coordination and selection of said training programs to assure the effective and efficient operation of these programs. Not less than fifty percent (50%) of the subsidy for these programs shall be used in the training of primary health care and family/general practice physicians for the rural and medically underserved areas of the state. Provided that such subsidy may be used for the primary purpose of increasing the total number of residencies funded by the State of Oklahoma, wherever located within the state, during that period in which residency programs are being established in rural areas; provided further, that as said residency programs are established and accredited in rural hospitals, residency positions in such programs shall be first provided for by the Commission. The Commission shall present a report to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate within one (1) month of the beginning of each regular legislative session on the operation of the programs including the progress made in accomplishing the goals of physician training as to type of specialties and manpower placement of the kind necessary to provide adequate health care to the people throughout the State of Oklahoma. The subsidy to the participating hospital, clinical situation or training institution per resident or intern shall not exceed any maximum or minimum amount as may be prescribed by law or as determined by the

Commission. The actual amount of subsidy for physician training program situations shall be based upon a determination by the Commission of:

1. The type of primary care residency and internship programs involved and being conducted;

2. The extent of reimbursement available through third-party payers and all other sources; and

3. The program and salary costs incurred in the given training situation.

B. Effective July 1, 1994, the Physician Manpower Training Commission shall be abolished. All duties, powers, responsibilities, obligations, encumbrances, property and employees of the Commission shall be transferred to and assumed by the Oklahoma Health Care Authority.

SECTION 33. AMENDATORY 70 O.S. 1991, Section 697.5, is amended to read as follows:

Section 697.5 The Physician Manpower Training Commission and its successor, the Oklahoma Health Care Authority, in order to perform its official function in establishing and administering physician training programs, shall have the following specific powers, duties and responsibilities:

1. To review all available data on physician manpower in Oklahoma in order to determine the current and projected distribution of physicians by geographic location and by type of practice, and, to accomplish this review, the Commission or Authority shall obtain information from and work in conjunction with the State Department of Health and all other agencies which gather data and evaluate health manpower needs;

2. To review data and information on accredited physician internship and residency programs currently operated by Oklahoma hospitals and other approved clinical situations, in order to ascertain the number and distribution by physician specialty

training and by geographic location of available internship and residency positions and to evaluate the impact of internship and residency placement on the establishment of practices by physicians in that geographic area or similar areas within the state where their services are urgently needed;

3. To serve as an agent to advise hospitals, clinics, and communities on setting up and planning internship and residency programs which emphasize the provision of additional primary care physicians to service the rural areas of Oklahoma with primary care specialties to be defined to include training in the area of internal medicine, obstetrics and gynecology, pediatrics, emergency trauma, and family practice;

4. To provide general counsel and advice in the development, operation and evaluation of physician internship and residency programs throughout the State of Oklahoma in cooperation with the efforts of the Oklahoma State Regents for Higher Education and the state's physician training institutions such as the Oklahoma University College of Medicine, Oklahoma City and Tulsa campuses, and the Oklahoma College of Osteopathic Medicine and Surgery, and subject to accreditation by official and appropriate accrediting agencies;

5. To develop the criteria for determining the physician training cost component or associated clinical and hospital training costs which are or may be nonreimbursable by third party payers in programs proposed by accredited hospitals, clinical situations, or hospital and clinical programs affiliated with and administered by the College of Medicine, College of Medicine - Tulsa or College of Osteopathic Medicine and Surgery in order to determine the share for the state in supporting the salary, benefits, training and program administration costs incurred by hospitals in supporting of the interns and residents;

6. To develop the criteria and procedure by which state matching funds will be awarded to hospitals, accredited clinical situations, in cooperation with the University of Oklahoma College of Medicine, University of Oklahoma College of Medicine - Tulsa, and the Oklahoma College of Osteopathic Medicine and Surgery which shall administer programs in hospital and clinical situations in the state to be used to underwrite the salaries, benefits and associated training and administration costs provided for the physician interns and residents during their period of training in such a way as to create an incentive for the development and establishment of residency and internship positions by hospitals, clinical establishments or by affiliation agreement with the University of Oklahoma College of Medicine, University of Oklahoma College of Medicine - Tulsa and the Oklahoma College of Osteopathic Medicine and Surgery by providing funds to cover and to supplement the nonreimbursable or additional costs incurred in hospitals for training activities or for delivery of service in outreach and ambulatory clinical situations which are outside but associated with the hospitals and clinical establishments participating in the program;

7. To review and to approve for inclusion in the programs funded the applications for funds submitted by accredited hospitals and clinical situations participating in physician training programs in cooperation with the University of Oklahoma College of Medicine, University of Oklahoma College of Medicine - Tulsa and the Oklahoma College of Osteopathic Medicine and Surgery for the costs of supplying residents and interns in programs which they administer by affiliation agreements with hospitals and clinical situations throughout the state in which the interns and residents are supervised and funded by the University of Oklahoma College of Medicine, University of Oklahoma College of Medicine - Tulsa and the Oklahoma College of Osteopathic Medicine and Surgery and the

hospitals and clinical establishments pay for the patient care services rendered in their institutions by these residents and interns during the period of training;

8. To determine the specific level of funding and the priorities used for granting state support to approved hospitals and clinical situations, in cooperation with the University of Oklahoma College of Medicine, University of Oklahoma College of Medicine - Tulsa and the Oklahoma College of Osteopathic Medicine and Surgery for approved hospital physician training programs for interns and residents and to recommend to the Governor and the Oklahoma Legislature the total funds needed to carry out the purpose of this program;

9. To employ a director and any staff personnel required to administer the funding of approved physician training programs and to contract with other state agencies and institutions to conduct and to perform specified services, functions and aspects in administering state funds on the specified cost-sharing basis determined by the Commission or Authority or for developing programs and community and institutional participation in these training programs;

10. To ensure that hospitals or clinical situations that can qualify in all sections of Oklahoma be utilized, and to take all steps necessary to assist such hospitals or clinics in obtaining necessary recognition or status, or in meeting standards for accreditation or affiliation so that they may participate in these physician training programs;

11. To ensure that in programs administered and operated by the University of Oklahoma College of Medicine, University of Oklahoma College of Medicine - Tulsa and the Oklahoma College of Osteopathic Medicine and Surgery in hospitals and clinical situations throughout the state that funds allocated to the colleges are paid by the hospitals and clinical situations in which the patient care services

are rendered, the funds are expended for such purposes in funding residents and interns in the physician training programs that the colleges have established with the approved hospitals and clinical situations which programs are designed to provide primary health care services to the rural and medically underserved parts of the state;

12. To conduct and to administer a program of physician and health manpower placement services throughout the State of Oklahoma. Placement services shall be made available to communities, hospitals, health care facilities, physician and health professional training institutions, health professional associations and organizations, individual physicians, health professionals, students in physician and health professional training institutions and schools, and other interested parties in such a way so as to further the purposes of improving the distribution of physicians and health professionals practicing or available for practice in the state and improving in the availability of health care services to the people of the state. Said placement service shall include but not be limited to assisting communities in matching with, contacting and recruiting physicians and health professionals to practice in communities in the state. The Commission or Authority shall develop criteria and procedures for the conduct and performance of placement services and employ any staff, contract for services with any private agency, nonprofit corporation or institution to facilitate the performance of placement services.

SECTION 34. AMENDATORY 70 O.S. 1991, Section 697.7, is amended to read as follows:

Section 697.7 The Physician Manpower Training Commission or its successor, the Oklahoma Health Care Authority, is hereby authorized to enter into contractual arrangements with any qualified hospital in any city or town in Oklahoma whereby the hospital would accommodate a resident physician to practice in the hospital during

a six-month elective phase of the residency training program which is conducted in an accredited free-standing-teaching hospital in cooperation with the University of Oklahoma College of Medicine, University of Oklahoma-Tulsa Medical College, and the Oklahoma College of Osteopathic Medicine and Surgery. The hospital accommodating said resident physician shall pay to the Commission or the Authority such monies as may be required to cover the agreed amount to pay the cost of the salary stipend and expenses of the resident physician for the period of time spent in practice at said hospital. Monies received by the Commission from the participating hospital under the provisions of this section shall be deposited to, and disbursed from, the "Hospital Residency Revolving Fund" hereby created in the State Treasury. The fund shall be a continuing fund not subject to legislative appropriation or fiscal year limitations. Expenditures from said fund shall be made on warrants issued by the State Treasurer against claims filed by the Commission with the Director of State Finance for approval and payment. Effective July 1, 1994, this fund shall be dissolved and all monies therein shall be transferred to the Oklahoma Health Care Authority Revolving Fund. Monies received by the Authority from the participating hospital pursuant to this section shall be deposited to, and disbursed from, the Oklahoma Health Care Authority Revolving Fund.

SECTION 35. AMENDATORY 70 O.S. 1991, Section 697.8, is amended to read as follows:

Section 697.8 A community may enter into a contract with a resident physician in training whereby the resident agrees to establish a practice in the community upon the completion of his residency. The Physician Manpower Training Commission or its successor, the Oklahoma Health Care Authority, shall have the authority to receive funds direct from that community for the purpose of paying the resident involved to the extent of the contractual arrangements. Monies received by the Commission under

the provisions of this section shall be deposited to, and disbursed from, the "Community Residency Revolving Fund" hereby created in the State Treasury. The fund shall be a continuing fund not subject to legislative appropriation or fiscal year limitations. Expenditures from said fund shall be made on warrants issued by the State Treasurer against claims filed by the Commission with the Director of State Finance for approval and payment. Effective July 1, 1994, this fund shall be dissolved and all monies therein shall be transferred to the Oklahoma Health Care Authority Revolving Fund. Monies received by the Authority pursuant to this section shall be deposited to, and disbursed from the Oklahoma Health Care Authority Revolving Fund.

SECTION 36. AMENDATORY 70 O.S. 1991, Section 697.9, is amended to read as follows:

Section 697.9 There is hereby created and established the Community Preceptor Physician Training and Work Experience Scholarship Fund which fund shall be administered by the Physician Manpower Training Commission for the purpose of providing state matching funds assistance and encouraging the development of a program whereby the state in conjunction with given communities, hospitals or clinical training situations funds the stipends and living expenses for medical students who agree to work in these given communities during the vacation times during the course of their education in the University of Oklahoma College of Medicine or the Oklahoma College of Osteopathic Medicine and Surgery. Effective July 1, 1994, this fund shall be dissolved and all monies therein shall be transferred to the Oklahoma Health Care Authority Revolving Fund. Monies received by the Authority pursuant to this section shall be deposited to, and disbursed from the Oklahoma Health Care Authority Revolving Fund. All duties and powers provided for in this section shall be transferred to the Oklahoma Health Care Authority, effective July 1, 1994. The Commission or the Authority,

shall develop procedures for determining the matching funds participation of communities and of the state for a given student and coordinate with the physician training institutions in the state for the selection of students to participate in the program and the selection of physicians who will supervise students and hospitals and clinical situations in which the training and experience occurs in the delivery of primary health care to rural and medically underserved areas with the purpose of providing medical and osteopathic students an opportunity to develop relationships with communities and encourage them to locate their practices in areas of medical need.

SECTION 37. AMENDATORY 70 O.S. 1991, Section 697.10, is amended to read as follows:

Section 697.10 The Commission or its successor, the Oklahoma Health Care Authority, is authorized to enter into contractual arrangements with individual hospitals and clinical programs for the reimbursement of intern or resident salary cost not to exceed the limits established by Title 70, Section 697.2, of the Oklahoma Statutes. Provided, that residency and internship positions created prior to the spring semester 1975 shall be eligible for participation in the cost-sharing program for internship and residency training as established by Title 70, Sections 697.1 through 697.8, of the Oklahoma Statutes, only if partial funding of said positions will allow the creation of additional positions in whole or in part at the participating hospital or clinical situation. The participating hospital or clinical situation shall document in a manner specified by the Commission or the Authority the extent to which funding of a previously created and established position will contribute directly to the creation of additional positions at the participating hospital or clinical situation.

SECTION 38. AMENDATORY 70 O.S. 1991, Section 697.15, is amended to read as follows:

Section 697.15 In order for any hospital or clinic to be eligible to receive funds through the Physician Manpower Training Commission or its successor, the Oklahoma Health Care Authority, for residency or internship positions, such hospital or clinic shall affirm that students receiving their medical education in Oklahoma will be given special consideration for all residency and internship positions.

SECTION 39. AMENDATORY 70 O.S. 1991, Section 697.16, is amended to read as follows:

Section 697.16 A. Effective July 1, 1982, all positions of the Physician Manpower Training Commission except the Executive Director who shall remain in the unclassified service, shall become subject to the Merit System of Personnel Administration. All incumbent employees shall be classified without the need to pass examinations and shall be allocated in accordance with the recommended classifications as proposed by the Merit System.

B. Effective July, 1994, all employees of the Physician Manpower Training Commission shall be transferred to the Oklahoma Health Care Authority.

SECTION 40. AMENDATORY 70 O.S. 1991, Section 697.17, is amended to read as follows:

Section 697.17 A. There is hereby established the Nursing Student Assistance Program which shall be administered by the Physician Manpower Training Commission until July 1, 1994, and thereafter by the Oklahoma Health Care Authority. The purpose of the program shall be to encourage persons to enter nursing education programs and to practice in areas of this state in which there is an urgent need for nursing services or in institutions or agencies of this state which provide funds on a matching basis with the Physician Manpower Training Commission or the Authority for the support of nursing students. The Nursing Student Assistance Program shall be administered by rules adopted by the Physician Manpower

Training Commission or the Authority. The rules of the Commission shall remain in effect until new rules are promulgated by the Authority.

B. Only students who are residents of this state shall be eligible to participate in the Nursing Student Assistance Program.

C. If a person receiving Nursing Student Assistance Program funds fails to fully comply with the provisions of the contract for said funds, the person shall refund to the Physician Manpower Training Commission or the Authority all monies received by the person pursuant to the provisions of the contract plus interest at the rate of twelve percent (12%) from the date of disbursement of said funds and shall be liable for any other liquidated damages as specified in the contract.

D. There is hereby created in the State Treasury a revolving fund for the Physician Manpower Training Commission to be designated the "Nursing Student Assistance Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all nonappropriated monies, including community match money of appropriated funds, grants, gifts, and repayment of scholarships received by the Physician Manpower Training Commission. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Physician Manpower Training Commission for such scholarships as may be provided for pursuant to the Nursing Student Assistance Program. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. Effective July 1, 1994, this fund shall be dissolved and all monies therein shall be transferred to the Oklahoma Health Care Authority Revolving Fund.

SECTION 41. AMENDATORY 70 O.S. 1991, Section 697.18, is amended to read as follows:

Section 697.18 A community may enter into a contract with a physician who is a graduate from an accredited medical school whereby such physician agrees to establish a practice in that community. The Physician Manpower Training Commission or its successor, the Oklahoma Health Care Authority, shall have the authority to receive funds direct from that community for the purpose of paying the physician involved to the extent of the contractual arrangement. Monies received by the Commission under the provisions of this section shall be deposited to and disbursed from, the "Community Match Revolving Fund" hereby created in the State Treasury. The fund shall be a continuing fund not subject to legislative appropriation of fiscal year limitations. Expenditures from said fund shall be made on warrants issued by the State Treasurer against claims filed by the Commission with the Director of State Finance for approval and payment. Effective July 1, 1994, this fund shall be dissolved and all monies therein shall be transferred to the Oklahoma Health Care Authority Revolving Fund.

SECTION 42. AMENDATORY 70 O.S. 1991, Section 697.19, is amended to read as follows:

Section 697.19 A. There is hereby established the Omnibus Budget Reconciliation Act Program (OBRA) which shall be administered by the Physician Manpower Training Commission, until July 1, 1994, and thereafter, by the Oklahoma Health Care Authority. The purpose of the program shall be to encourage persons to enter nursing education programs and to practice in nursing homes of this state in which there is an urgent need for nursing services which provide funds on a matching basis with the Physician Manpower Training Commission or the Authority for the support of nursing students. The OBRA Program shall be administered by rules under the Oklahoma Nursing Student Assistance Program adopted by the Physician Manpower Training Commission or the Authority.

B. Only students who are residents of this state shall be eligible to participate in the OBRA Program.

C. If a person receiving OBRA Program funds fails to fully comply with the provisions of the contract for said funds, the person shall refund to the Physician Manpower Training Commission or the Authority all monies received by the person pursuant to the provisions of the contract plus interest at the rate of twelve percent (12%) from the date of disbursement of said funds and shall be liable for any other liquidated damages as specified in the contract.

D. There is hereby created in the State Treasury a revolving fund for the Physician Manpower Training Commission to be designated the "OBRA Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all nonappropriated monies, including local nursing home association match money of appropriated funds, grants, gifts, and repayment of scholarships received by the Physician Manpower Training Commission. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Physician Manpower Training Commission for such scholarships as may be provided for pursuant to the OBRA Program. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. Effective July 1, 1994, this fund shall be dissolved and all monies therein shall be transferred to the Oklahoma Health Care Authority Revolving Fund.

SECTION 43. AMENDATORY Section 21, Chapter 324, O.S.L. 1992 (70 O.S. Supp. 1992, Section 697.20), is amended to read as follows:

Section 697.20 A. There is hereby created the "Osteopathic Internship and Residency Program" which shall be conducted and administered by the Physician Manpower Training Commission, or its

successor, the Oklahoma Health Care Authority. The purpose of this program is to provide for the fair and necessary distribution of funds allocated to it by the Legislature to provide monies to the following programs ~~under the Physician Manpower Training Program:~~

1. The Doctor of Osteopathy Residency Program (OSU/COM);
2. The Osteopathic General Practice Residency Program (OSU/COM); and
3. The Osteopathic Internship Program (OSU/COM).

B. The Physician Manpower Training Commission is hereby authorized to distribute such monies to the funds specified in Sections 697.2 and 697.6 of this title necessary to fund the programs specified in this section, until July 1, 1994; thereafter, funding for such program shall be from the Oklahoma Health Care Authority Revolving Fund.

SECTION 44. AMENDATORY 74 O.S. 1991, Section 1306, as amended by Section 16, Chapter 400, O.S.L. 1992 (74 O.S. Supp. 1992, Section 1306), is amended to read as follows:

Section 1306. ~~(1)~~ The State and Education Employees Group Insurance Board shall administer and manage the group insurance plans and the flexible benefits plan and, subject to the provisions of the State and Education Employees Group Insurance Act, Section 1301 et seq. and the State Employees Flexible Benefits Act, Section 1341 et seq. of this title, shall have the following powers and duties:

(a) The preparation of specifications for such insurance plans as the Board may be directed to offer;

(b) The authority and duty to request bids through the Purchasing Division of the ~~Office of Public Affairs~~ Department of Central Services, for a contract to be the claims administrator for all or any part of such insurance and benefit plans as the Board may be directed to offer;

(c) The determination of the methods of claims administration under such insurance and benefit plans as the Board may be directed to offer;

(d) The determination of the eligibility of employees and their dependents to participate in each of the Group Insurance Plans and in such other insurance and benefit plans as the Board may be directed to offer and the eligibility of employees other than education employees to participate in the Life Insurance Plan provided that evidence of insurability shall not be a requirement in determining an employee's initial eligibility;

(e) The determination of the amount of employee payroll deductions and the responsibility of establishing the procedure by which such deduction shall be made;

(f) The establishment of a grievance procedure by which a three-member grievance panel shall act as an appeals body for complaints by insured employees regarding the allowance and payment of claims, eligibility, and other matters. Except for grievances settled to the satisfaction of both parties prior to a hearing, any person who requests in writing a hearing before the grievance panel shall receive a hearing before the panel. The grievance procedure provided by this paragraph shall be the exclusive remedy available to insured employees having complaints against the insurer. Such grievance procedure shall be subject to the Oklahoma Administrative Procedures Act, Sections 301 through 325 of Title 75 of the Oklahoma Statutes including provisions thereof for review of agency decisions by the district court. The grievance panel shall schedule a hearing regarding the allowance and payment of claims, eligibility and other matters within sixty (60) days from the date the grievance panel receives a written request for a hearing unless the panel orders a continuance for good cause shown. Upon written request by the insured employee to the grievance panel and received not less than ten (10) days before the hearing date, the grievance panel shall

cause a full stenographic record of the proceedings to be made by a competent court reporter at the insured employee's expense;

(g) The continuing study of the operation of such insurance and benefit plans as the Board may be directed to offer including such matters as gross and net costs, administrative costs, benefits, utilization of benefits, and claims administration;

(h) The administration of the Health, Dental and Life Insurance Reserve Fund or Funds, the Flexible Benefits Revolving Fund and the Education Employees Group Insurance Reserve Fund;

(i) The auditing of the claims paid pursuant to the provisions of the State and Education Employees Group Insurance Act, the State Employees Flexible Benefits Act and the State Employees Disability Program Act;

(j) (1) To select and contract with federally qualified Health Maintenance Organizations under the provisions of 42 U.S.C., Section 300e et seq. for consideration by employees as an alternative to the state self-insured health plan, and to transfer to the HMOs such funds as may be approved for an employee electing HMO alternative services.

(2) HMO contracts shall provide for a risk adjustment factor for adverse selection, that may occur as determined by the Board, based on generally accepted actuarial principles;

(k) For the fiscal year beginning July 1, 1992, to assess and collect a four percent (4%) fee from such contracted HMOs to offset the costs of administration, and to appropriate and pay to the Benefits Council Administration Fund an amount equal to fifty percent (50%) of said fee within ten (10) days of collection;

(l) To contract for reinsurance, catastrophic insurance, or any other type of insurance deemed necessary by the Board;

(m) The Board, pursuant to the provisions of Sections 301 through 325 of Title 75 of the Oklahoma Statutes, shall adopt such rules and regulations consistent with the provisions of the State

and Education Employees Group Insurance Act as it deems necessary to carry out its statutory duties and responsibilities;

(n) The Board shall contract for claims administration services with a private insurance carrier or a company experienced in claims administration of any insurance that the Board may be directed to offer. No contract for claims administration services shall be made unless such contract has been offered for bids through the Purchasing Division of the ~~Office of Public Affairs~~ Department of Central Services. The Board shall contract with a private insurance carrier or other experienced claims administrator to process claims with software that is normally used for its customers;

(o) The Board shall contract for utilization review services with a company experienced in utilization review, data base evaluation, market research, and planning and performance of the health insurance plan;

(p) The Board shall approve the amount of employee premiums and dependent premiums for such insurance plans as the Board shall be directed to offer for each fiscal year no later than March 1 of the previous fiscal year. The Board shall submit notice of the amount of employee premiums and dependent premiums along with an actuarial projection of the upcoming fiscal year's enrollment, employee contributions, employer contributions, investment earnings, paid claims, internal expenses, external expenses and changes in liabilities to the Director of the Office of State Finance and the Director of the Legislative Service Bureau no later than March 1 of the previous fiscal year;

(q) Before December 1 of each year the Board shall submit to the Director of the Office of State Finance a report outlining the financial condition for the previous fiscal year of all insurance plans offered by the Board. The report shall include a complete explanation of all reserve funds and the actuarial projections on the need for such reserves. The report shall include and disclose

an estimate of the future trend of medical costs, the impact from HMO enrollment, antiselection, changes in law, and other contingencies that could impact the financial status of the plan. The Director of the Office of State Finance shall make written comment on the report and shall provide such comment, along with the report submitted by the Board, to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Chairman of the Oklahoma State Employees Benefits Council by January 15;

(r) The Board shall establish a prescription drug card network for the fiscal year beginning July 1, 1990;

(s) The Board shall have the authority to intercept monies owing to plan participants from other state agencies, when those participants in turn, owe money to the Board. The Board shall be required to adopt rules and regulations ensuring the participants due process of law;

(t) The Board is authorized to make available to eligible employees supplemental health care benefit plans to include but not be limited to long-term care, deductible reduction plans and employee co-payment reinsurance. Premiums for said plans shall be actuarially based and the cost for such supplemental plans shall be paid by the employee; ~~and~~

(u) There is hereby created as a joint committee of the State Legislature, the Joint Liaison Committee on State and Education Employees Group Insurance Benefits, which Joint Committee shall consist of three members of the Senate to be appointed by the President Pro Tempore thereof and three members of the House of Representatives to be appointed by the Speaker thereof. The Chairman and Vice Chairman of the Joint Committee shall be appointed from the membership thereof by the President Pro Tempore of the Senate and the Speaker of the House of Representatives, respectively, one of whom shall be a member of the Senate and the

other shall be a member of the House of Representatives. At the beginning of the first regular session of each Legislature, starting in 1991, the Chairman shall be from the Senate; thereafter the chairmanship shall alternate every two (2) years between the Senate and the House of Representatives.

The Joint Liaison Committee on State and Education Employees Group Insurance Benefits shall function as a committee of the State Legislature when the Legislature is in session and when the Legislature is not in session. Each appointed member of said committee shall serve until his or her successor is appointed.

The Joint Liaison Committee on State and Education Employees Group Insurance Benefits shall serve as a liaison with the State and Education Employees Group Insurance Board regarding advice, guidance, policy, management, operations, plans, programs and fiscal needs of said Board. Said Board shall not be bound by any action of the Joint Committee;

(v) For the fiscal year beginning July 1, 1993, certain duties and responsibilities of the Board shall be transferred to the Oklahoma State Employees Benefits Council pursuant to the provisions of the Oklahoma State Employees Benefits Act. During the fiscal year beginning July 1, 1992, the Board shall cease activities related to the implementation of said transferred duties and responsibilities for the next fiscal year and implement all reasonable actions to ensure the effective and efficient transfer of said duties and responsibilities to the Oklahoma State Employees Benefits Council; and

(w) For the fiscal year beginning July 1, 1994, the duties and responsibilities transferred to the Oklahoma State Employees Benefits Council pursuant to paragraph (v) of this section shall be transferred to the Oklahoma Health Care Authority. During the fiscal year beginning July 1, 1993, the Council shall cease activities related to the implementation of said transferred duties

and responsibilities for the next fiscal year and implement all reasonable actions to ensure the effective and efficient transfer of said duties and responsibilities to the Oklahoma Health Care Authority.

SECTION 45. AMENDATORY Section 3, Chapter 400, O.S.L. 1992 (74 O.S. Supp. 1992, Section 1363), is amended to read as follows:

Section 1363. The following words and phrases as used in this act, unless a different meaning is clearly required by the context, shall have the following meanings:

1. "Authority" means the Oklahoma Health Care Authority;

2. "Basic plan" means the plan that provides the least amount of benefits each participant is required to purchase pursuant to the provisions of the plan. The basic plan shall include only health, dental, disability and life benefits;

~~2.~~ 3. "Benefit" means any of the benefits which may be purchased or is required to be purchased under the plan;

~~3.~~ 4. "Benefit plan" means the specific terms and conditions regarding a benefit which may be purchased under the plan, including the terms and conditions of any separate plan document, group insurance policy or administrative services contract entered into by the Council;

~~4.~~ 5. "Benefit price" means the number of flexible benefit dollars needed to purchase a benefit under the plan;

~~5.~~ 6. "Board" means the State and Education Employees Group Insurance Board, as created by the State and Education Employees Group Insurance Act;

~~6.~~ 7. "Code" means the Internal Revenue Code of 1986, as amended, from time to time;

~~7.~~ 8. "Compensation" means the remuneration directly paid to a participating employee by a participating employer exclusive of overtime pay, and longevity pay, calculated prior to and without

regard to adjustments arising out of an employee's participation in the plan authorized pursuant to this act, or amounts deferred under the tax sheltered income deferment plans as authorized by Section 1701 et seq. of this title;

~~8.~~ 9. "Council" means the Oklahoma State Employees Benefits Council, as created by this act;

~~9.~~ 10. "Default benefit" means any benefit a participant who fails to make a proper election under the plan shall be deemed to have purchased;

~~10.~~ 11. "Dependent" means a participant's spouse or any of his or her dependents as defined in Code Section 152 and regulations promulgated thereunder;

~~11.~~ 12. "Flexible benefit allowance" means the annual amounts credited by the participating employer for each participant for the purchase of benefits under the plan;

~~12.~~ 13. "Flexible benefit dollars" means the sum of the flexible benefit allowance and pay conversion dollars allocated by a participant pursuant to provisions of the plan;

~~13.~~ 14. "Participant" means any officer or employee of a participating employer who is a member of the Oklahoma Law Enforcement Retirement System, the Oklahoma Public Employees Retirement System or the Uniform Retirement System for Justices and Judges, any officer or employee of a participating employer, whose employment is not seasonal or temporary and whose employment requires at least one thousand (1,000) hours of work per year and whose salary and wage is equal to or greater than the hourly wage for state employees as provided in Section 284 of this title, and any employee of a participating employer who is a member of the Teachers' Retirement System of Oklahoma;

~~14.~~ 15. "Participating employer" means any state agency, board, commission, department, institution, authority, officer, bureau, council, office or other entity created by the Oklahoma Constitution

or statute that is a participating employer of the Oklahoma Law Enforcement Retirement System, the Oklahoma Public Employees Retirement System or the Uniform Retirement System for Justices and Judges, but shall not include any county, county hospital, city or town, conservation district, any private or public trust in which a county, city or town participates and is the primary beneficiary, the State Regents for Higher Education or any institution under the authority of the State Regents for Higher Education, any school district or vocational-technical school district, or political subdivision of the state, but shall include the State Department of Education, the Oklahoma Department of Wildlife Conservation, the Oklahoma Employment Security Commission, the Teachers' Retirement System of Oklahoma and the State Department of Vocational and Technical Education;

~~15.~~ 16. "Pay conversion dollars" means amounts by which a participant elects to reduce his compensation to purchase benefits under the plan;

~~16.~~ 17. "Plan" means the flexible benefits plan authorized pursuant to the State Employees Flexible Benefits Act as modified by the provisions of this act;

~~17.~~ 18. "Plan year" means the twelve-month period commencing on July 1 and ending on the following June 30;

~~18.~~ 19. "Salary Adjustment Agreement" means a written agreement between a participant and participating employer whereby the employer agrees to adjust the salary of the participant by a stated amount or an amount equal to the cost of benefits selected under the plan and the participating employer agrees to contribute such amount to cover certain costs of the benefits selected by the participant to the Council; and

~~19.~~ 20. "Termination" means the termination of a participant's employment as an employee of a participating employer, whether by

reasons of discharge, voluntary termination, retirement, death or reduction-in-force.

SECTION 46. AMENDATORY Section 4, Chapter 400, O.S.L. 1992 (74 O.S. Supp. 1992, Section 1364), is amended to read as follows:

Section 1364. A. There is hereby created within the Office of Personnel Management the Oklahoma State Employees Benefits Council. The Oklahoma State Employees Benefits Council shall be composed of the five (5) following individuals:

1. The Administrator of the Office of Personnel Management;
2. Two members appointed by the Governor;
3. One member appointed by the President Pro Tempore of the Senate; and
4. One member appointed by the Speaker of the House of Representatives.

B. The initial term of office of the members appointed by the Governor shall expire on January 9, 1995. The members thereafter appointed by the Governor shall serve a term of office of four (4) years which is coterminous with the term of office of the office of the appointing authority. The initial term of office of the member appointed by the Speaker of the House of Representatives shall expire on January 11, 1994. The initial term of office of the member appointed by the President Pro Tempore of the State Senate shall expire on January 9, 1996. The members thereafter appointed by the Speaker of the House of Representatives and the President Pro Tempore of the State Senate shall serve a term of office of four (4) years.

C. No member of the Council shall be a lobbyist registered in this state as provided by law, or be employed, directly or indirectly, by any firm or health care provider under contract to the Council or Board, or any benefit program under its jurisdiction, for any goods or services whatsoever.

D. Any vacancy that occurs on the Council shall be filled for the unexpired term in the same manner as the office was previously filled.

E. The general administration and responsibility for the proper design, selection or operation of the benefits offered under the plan and for making effective the provisions of this act are hereby vested in the Council, which shall be organized immediately after a majority of the Council members provided for in this section shall have been qualified and taken the oath of office.

F. The Council shall at its first meeting elect one of its members as chairman. The chairman shall preside over meetings of the Council and perform such other duties as may be required by the Council. The Council shall elect one of its members to serve as vice-chairman who shall perform the duties of the chairman in the absence of the latter or upon his inability or refusal to act. The Council shall elect one of its members to serve as secretary.

G. The Council shall hold regular meetings at least once each month in Oklahoma City, the date, time, and place thereof to be fixed by the Council. The Council shall, in July of each year, hold a regular meeting which shall be the annual meeting, at which meeting it shall elect officers.

H. Special meetings may be called upon written notice by the chairman or by agreement of any three (3) members of the Council.

I. The Oklahoma State Employees Benefits Council shall cease to exist July 1, 1994. All duties and powers of the Council shall be transferred to the Oklahoma Health Care Authority by July 1, 1994.

Notice of a special meeting shall be delivered to all members in person or by registered or certified United States mail not less than seven (7) days prior to the date fixed for the meeting; provided, however, that notice of such meeting may be waived by any member either before or after such meeting and attendance at such meeting shall constitute a waiver of notice of such meeting, unless

a member participates therein solely to object to the transaction of any business because the meeting has not been legally called or convened.

~~I.~~ J. The majority of the members of the Council shall constitute a quorum for the transaction of business. Each Council member shall be entitled to one vote on the Council. Any official action of the Council must have three (3) votes of the members of the Council present.

~~J.~~ K. All resolutions, proceedings, acts and determinations of the Council shall be recorded and all such records, together with such documents and instruments as may be necessary for the administration of the plan, shall be preserved in the custody of the executive director.

~~K.~~ L. Each member of the Council shall serve without compensation except that each of the Council members shall receive travel expenses in accordance with the State Travel Reimbursement Act.

~~L.~~ M. The Council shall not be subject to the provisions of the Oklahoma Sunset Law, Section 3901 et seq. of this title.

SECTION 47. AMENDATORY Section 5, Chapter 400, O.S.L. 1992 (74 O.S. Supp. 1992, Section 1365), is amended to read as follows:

Section 1365. A. ~~The~~ Until July 1, 1994, the Oklahoma State Employees Benefits Council shall have the following duties, responsibilities and authority with respect to the administration of the plan:

1. To construe and interpret the plan, and decide all questions of eligibility in accordance with this act and the Code;

2. To select those benefits which shall be made available to participants under the plan, according to this act, and other applicable laws and regulations;

3. To retain or employ qualified agencies, persons or entities to design, develop, communicate, implement or administer the plan;

4. To prescribe procedures to be followed by participants in making elections and filing claims under the plan;

5. To prepare and distribute information communicating and explaining the plan to participating employers and participants; provided that neither the Board, health maintenance organizations, nor other third-party insurance vendors shall be directly or indirectly involved in the distribution of said communicated information to participating employers and participants;

6. To receive from participating employers and participants such information as shall be necessary for the proper administration of the plan, and any of the benefits offered thereunder;

7. To furnish the participating employers and participants such annual reports with respect to the administration of the plan as are reasonable and appropriate;

8. To keep reports of benefit elections, claims and disbursements for claims under the plan;

9. To appoint an executive director who shall serve at the pleasure of the Council. The executive director shall employ or retain such persons in accordance with this act and the requirements of other applicable law, including but not limited to actuaries and certified public accountants, as he or she deems appropriate to perform such duties as may from time to time be required under this act and to render advice upon request with regard to any matters arising under the plan subject to the approval of the Council. The executive director shall have not less than seven (7) years of group insurance administration experience on a senior managerial level or not less than three (3) years of flexible benefits experience on a senior managerial level. Any actuary or certified public accountant employed or retained under contract by the Council shall have not less than three (3) years' experience in group insurance or employee

benefits administration. The compensation of all persons employed or retained by the Council and all other expenses of the Council shall be paid at such rates and in such amounts as the Council shall approve, subject to the provisions of applicable law;

10. For the plan year beginning July 1, 1993, ~~and all future plan years,~~ to select and contract with federally qualified health maintenance organizations under the provisions of 42 U.S.C., Section 300e et seq. or with health maintenance organizations licensed by the Department of Health pursuant to Sections 2501 through 2510 of Title 63 of the Oklahoma Statutes for consideration by participants as an alternative to the health plans offered by the Board, and to transfer to the health maintenance organizations such funds as may be approved for a participant electing health maintenance organization alternative services;

11. To purchase any insurance deemed necessary for providing benefits under the plan, provided that the only indemnity plan selected by the Council shall be the indemnity plan offered by the Board, and to transfer to the Board such funds as may be approved for a participant electing a benefit plan offered by the Board;

12. For the plan year beginning July 1, 1993, ~~and all future plan years,~~ to assess and collect reasonable fees from the Board, and from such contracted health maintenance organizations and third party insurance vendors to offset the costs of administration as determined by the Council;

13. To accept, modify or reject elections under the plan in accordance with this act and the Code;

14. To promulgate election and claim forms to be used by participants; and

15. To take all steps deemed necessary to properly administer the plan in accordance with this act and the requirements of other applicable law.

B. Beginning July 1, 1994, the Oklahoma Health Care Authority shall have the duties, responsibilities and authority with respect to the implementation of the plan provided in paragraphs 1 through 9, 11, and 13 through 15 of subsection A of this section and, in addition, for the plan year beginning July 1, 1994, and all future plan years, shall have the duties, responsibilities and authority provided in paragraphs 10 and 12 of subsection A of this section.

C. The Council members and the Authority shall discharge their duties as fiduciaries with respect to the participants and their dependents of the plan, and all fiduciaries shall be subject to the following definitions and provisions:

1. A person or organization is a fiduciary with respect to the Council or Authority to the extent that the person or organization:
 - a. exercises any discretionary authority or discretionary control respecting administration or management of the Council or Authority,
 - b. exercises any authority or control respecting disposition of the assets of the Council or Authority,
 - c. renders advice for a fee or other compensation, direct or indirect, with respect to any participant or dependent benefits, monies or other property of the Council or Authority, or has any authority or responsibility to do so, or
 - d. has any discretionary authority or discretionary responsibility in the administration of the Council or Authority;

2. The Council or Authority may purchase insurance for its fiduciaries or for itself to cover potential liability or losses occurring by reason of the act or omission of a fiduciary, but any such insurance purchased by the Council or Authority must permit recourse by the insurer against a fiduciary in the case of a breach of fiduciary obligation by such fiduciary. Nothing in this

subsection shall be construed as requiring the purchase of any insurance;

3. Except for a breach of fiduciary obligation, a Council member or member of the Authority shall not be individually or personally responsible for any action of the Council or Authority;

4. Any person who is a fiduciary with respect to the Council or Authority shall be entitled to rely on representations made by participants, participating employers, third party administrators and beneficiaries with respect to age and other personal facts concerning a participant or beneficiaries, unless said fiduciary knows said representations to be false;

5. Each fiduciary shall discharge his or her duties and responsibilities with respect to the Council or Authority and the plan solely in the interest of the participants and beneficiaries of the plan according to the terms hereof, for the exclusive purpose of providing benefits to participants and their beneficiaries, with the care, skill, prudence and diligence under the circumstances prevailing from time to time that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims; and

6. The duties and responsibilities allocated to each fiduciary by this act or by the Council or Authority shall be the several and not joint responsibility of each, and no fiduciary shall be liable for the act or omission of any other fiduciary unless:

- a. by his or her failure to properly administer his or her specific responsibility he or she enabled such other person or organization to commit a breach of fiduciary responsibility, or
- b. he or she knowingly participates in, or knowingly undertakes to conceal, an act or omission of another person or organization, knowing such act or omission to be a breach, or

- c. having knowledge of the breach of another person or organization, he or she fails to make reasonable efforts under the circumstances to remedy said breach.

SECTION 48. AMENDATORY Section 6, Chapter 400, O.S.L. 1992 (74 O.S. Supp. 1992, Section 1366), is amended to read as follows:

Section 1366. A. The Council or Authority shall establish a flexible benefits plan in accordance with the provisions of this act. All participating employers shall offer the plan to their eligible employees.

B. The Council or Authority shall interpret the plan and decide any matters arising thereunder and may adopt such rules and procedures as it deems necessary, desirable or appropriate in the administration of the plan subject to the Administrative Procedures Act. All rules and decisions of the Council or Authority shall be uniformly and consistently applied to all participants in similar circumstances and shall be conclusive and binding on all persons having an interest in the plan. When making any decision or determination, the Council or Authority shall be entitled to rely upon such information as may be furnished to it by a participant, a participating employer, legal counsel, third party administrator or the management of any individual benefit plan which is incorporated in the plan.

C. The executive director, under the direction of the Council or Authority, may contract with one or more firms or organizations to administer or provide consulting services in regard to all or any portion of the plan.

The Council or Authority shall solicit proposals on a competitive bid basis from such firms or organizations according to the standards set out in the Central Purchasing Act, Section 85.1 et seq. of ~~Title 74 of the Oklahoma Statutes~~ this title. When requested by the Council or Authority, the Department of Central

Services shall assist the Council or Authority in the process of selecting any contracts for the design, development, communication or implementation of the plan.

When awarding a contract for services pursuant to this subsection, the Council or Authority shall satisfy itself that the contractor has no interests which would impair its ability to perform the tasks and services required and that the contractor will exercise proper independent judgment when performing its responsibilities under this act and under the contract.

D. The Council shall implement the plan created by this act for the fiscal year beginning July 1, 1993. The Council shall submit to the Director of the Legislative Service Bureau and the Director of the Office of State Finance a report detailing the procedures and operations performed or to be performed by the Council along with the associated costs for implementing and operating the plan prior to December 1, 1992. Said report, written in cooperation with the Board, shall make specific reference to the duties and responsibilities to be transferred from the Board to the Council by identifying and listing said duties and responsibilities, the actions of the Board that have facilitated or will facilitate the transfer of said duties and responsibilities, and what actions, if any, the Council desires the Board to take in order to further the efficient and effective transfer of said duties and responsibilities.

E. The Authority shall implement the plan created by this act for the fiscal year beginning July 1, 1994. The Authority shall submit to the Director of the Legislative Service Bureau and the Director of the Office of State Finance a report detailing the procedures and operations performed or to be performed by the Authority along with the associated costs for implementing and operating the plan prior to December 1, 1993. Said report, written in cooperation with the Board and the Council, shall make specific

reference to the duties and responsibilities to be transferred from the Board to the Council and from the Council to the Authority by identifying and listing said duties and responsibilities, the actions of the Board or Council that have facilitated or will facilitate the transfer of said duties and responsibilities, and what actions, if any, the Authority desires the Board or Council to take in order to further the efficient and effective transfer of said duties and responsibilities.

F. Expenses included in an employee's salary adjustment agreement pursuant to the flexible benefits plan shall be limited to expenses for:

1. Premiums for any health insurance, health maintenance organization, life insurance, long term disability insurance or dental insurance offered to employees and their dependents;

2. Insurance premiums or retirement plan premiums or payments which are supplemental to insurance or retirement programs offered by the State of Oklahoma or which are paid for under salary adjustment agreements pursuant to the provisions of ~~paragraph 1 or 2 of~~ subsection D or E of Section 7.10 of Title 62 of the Oklahoma Statutes;

3. Dependent care;

4. Medical care, as defined by the Council or the Authority;

and

5. All other eligible benefit programs offered under Code Section 125.

~~F.~~ G. The amount by which an employee's salary is adjusted pursuant to a salary adjustment agreement shall be excluded from income in computation of income tax withholding, federal insurance contributions act taxes, unemployment payments and workers' compensation coverage. Such amount shall be included as income in computation of state retirement contributions and benefits. Provided, if the inclusions and exclusions provided in this

subsection conflict with the provisions of federal law or regulations pertaining to flexible benefits plans, the Council or Authority is authorized to modify or abolish such inclusions and exclusions.

~~G. H.~~ The Office of Personnel Management shall provide the Council and Authority with the necessary services and facilities required to administer the programs of the Council and the programs of the Authority. Legal representation shall be provided by the Office of the Attorney General through the Office of Personnel Management as provided for in Section 18 1 of ~~Title 74 of the Oklahoma Statutes~~ this title. The Office of Personnel Management shall be reimbursed by the Council or the Authority for the cost of such services and facilities.

For budgetary purposes only, employees of the Council shall be considered employees of the Office of Personnel Management; however, such employees shall not for any other reason be considered employees of the Office of Personnel Management. The executive director shall be the appointing authority and agency head. All other positions and employees shall be classified and subject to the provisions of the Merit System of Personnel Administration except actuaries and other personnel and positions in the unclassified service as provided in Sections 840.8 and 840.10 of this title.

SECTION 49. AMENDATORY Section 7, Chapter 400, O.S.L. 1992 (74 O.S. Supp. 1992, Section 1367), is amended to read as follows:

Section 1367. There is hereby created in the State Treasury a revolving fund for the Office of Personnel Management to be designated the "Employee Benefits Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all flexible benefit dollars. Disbursements from this fund shall be limited solely to the payment of participant benefits as provided under this act and as determined by the

Council. Effective July 1, 1994, this fund shall be dissolved and all monies therein shall be transferred to the Oklahoma Health Care Authority Revolving Fund.

SECTION 50. AMENDATORY Section 8, Chapter 400, O.S.L. 1992 (74 O.S. Supp. 1992, Section 1368), is amended to read as follows:

Section 1368. There is hereby created in the State Treasury a revolving fund for the Office of Personnel Management to be designated the "Benefits Council Administration Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies properly credited and paid to the Council other than flexible benefit dollars. Disbursements from the fund shall be limited solely to the direct administrative costs of and as authorized solely by the Council. Effective July 1, 1994, this fund shall be dissolved and all monies therein shall be transferred to the Oklahoma Health Care Authority Revolving Fund.

SECTION 51. AMENDATORY Section 10, Chapter 400, O.S.L. 1992 (74 O.S. Supp. 1992, Section 1370), is amended to read as follows:

Section 1370. A. Subject to the requirement that a participant must elect at least the default benefits, or the basic plan, flexible benefit dollars may be used to purchase any of the benefits offered by the Council or Authority under the flexible benefits plan. A participant's flexible benefit dollars for a plan year shall consist of the sum of (1) flexible benefit allowance credited to a participant by the participating employer, and (2) pay conversion dollars elected by a participant.

B. Each participant will be credited annually with a specified amount as a flexible benefit allowance which will be available for the purchase of benefits. The amount of the flexible benefit allowance credited to each participant shall be communicated to him

or her prior to the enrollment period for each plan year. The amount of a participant's benefit allowance shall be an amount as determined by law or the amount determined by the Council or Authority based on a formula for determining a participant's benefit credits consistent with the requirements of Code Section 125(g) (2) and regulations thereunder.

C. If a participant desires to buy benefits whose sum total of benefit prices is in excess of his or her flexible benefit allowance, the participant may elect to use pay conversion dollars to purchase such excess benefits. Pay conversion dollars may be elected through a salary reduction agreement made pursuant to the election procedures of Section ~~11~~ 1371 of this ~~act~~ title. The elected amount shall be deducted from the participant's compensation in equal amounts each pay period over the plan year. On termination of employment during a plan year, a participant shall have no obligation to pay the participating employer any pay conversion dollars allocated to the portion of the plan year after the participant's termination of employment.

D. If a participant elects benefits whose sum total of benefit prices is less than his or her flexible benefit allowance, he or she shall receive any excess flexible benefit allowance as taxable compensation. Such taxable compensation will be paid in substantially equal amounts each pay period over the plan year. On termination during a plan year, a participant shall have no right to receive any such taxable cash compensation allocated to the portion of the plan year after the participant's termination. Nothing herein shall affect a participant's obligation to elect the minimum benefits or to accept the default benefits of the plan with corresponding reduction in the sum of his or her flexible benefit allowance equal to the sum total benefit price of such minimum benefits or default benefits.

SECTION 52. AMENDATORY Section 11, Chapter 400, O.S.L. 1992 (74 O.S. Supp. 1992, Section 1371), is amended to read as follows:

Section 1371. A. All participants must use a portion or all of their flexible benefit allowance to purchase at least the basic plan. On or before January 1 of each year, the Council or Authority shall design the basic plan for the next plan year to ~~insure~~ ensure that the basic plan provides adequate coverage to all participants. All benefit plans, whether offered by the Board, a health maintenance organization or other vendors shall at least meet the minimum requirements set by the Council or Authority for the basic plan.

B. The Board shall offer health, dental, disability, life and dental coverage to all participants and their dependents. For health, dental, disability and life coverage, the Board shall offer plans at the basic benefit level established by the Council or Authority, and in addition, may offer benefit plans that provide an enhanced level of benefits. The Board shall be responsible for determining the plan design and the benefit price for the plans that they offer. The benefits price for the basic plan during a plan year shall not exceed the flexible benefits allowance for the same plan year. The Council or Authority shall approve the plan designs to assure that they meet the minimum benefit levels.

Nothing in this subsection shall be construed as prohibiting the Board from offering additional medical plans, provided that any medical plan offered to participants shall meet or exceed the benefits provided in the medical portion of the basic plan.

C. In lieu of electing any of the preceding medical benefit plans, a participant may elect medical coverage by any health maintenance organization made available to participants by the Council or Authority. The benefit price of any health maintenance organization shall be determined annually by a sealed bid process

conducted through the Central Purchasing Division of the Department of Central Services. All plans offered by health maintenance organizations meeting the bid requirements as determined by the Council or Authority shall be accepted. All bidders shall submit along with their bid a notarized, sworn statement as provided by Section 85.22 of this title. The Council or Authority shall have the authority to reject any plan that does not meet the bid requirements.

D. Nothing in this section shall be construed as prohibiting the Council or Authority from offering additional qualified benefit plans or currently taxable benefit plans.

E. Each employee of a participating employer who meets the eligibility requirements for participation in the flexible benefits plan shall make an annual election of benefits under the plan during an enrollment period to be held prior to the beginning of each plan year. The enrollment period dates will be determined annually and will be announced by the Council or Authority, providing the enrollment period shall end no later than thirty (30) days before the beginning of the plan year.

Each such employee shall make an irrevocable advance election for the plan year or the remainder thereof pursuant to such procedures as the Council or Authority shall prescribe. Any such employee who fails to make a proper election under the plan shall, nevertheless, be a participant in the plan and shall be deemed to have purchased the default benefits described in this section.

F. The Council or Authority shall prescribe the forms that participants will be required to use in making their elections, and may prescribe deadlines and other procedures for filing the elections.

G. Any participant who, in the first year for which he or she is eligible to participate in the plan, fails to make a proper election under the plan in conformance with the procedures set forth

in this section or as prescribed by the Council or Authority shall be deemed automatically to have purchased the default benefits. The default benefits shall be the same as the basic plan benefits. Any participant who, after having participated in the plan during the previous plan year, fails to make a proper election under the plan in conformance with the procedures set forth in this section or prescribed by the Council or Authority, shall be deemed automatically to have purchased the same benefits which the participant purchased in the immediately preceding plan year, except that the participant shall not be deemed to have elected coverage under the health care reimbursement account plan or the dependent care reimbursement account plan;

H. Benefit plan contracts with the Board, health maintenance organizations, and other third party insurance vendors shall provide for a risk adjustment factor for adverse selection that may occur, as determined by the Council or Authority, based on generally accepted actuarial principles.

SECTION 53. AMENDATORY Section 12, Chapter 400, O.S.L. 1992 (74 O.S. Supp. 1992, Section 1372), is amended to read as follows:

Section 1372. The Council or Authority shall be responsible for making all determinations as to the rights of any participant or any beneficiary of a participant to receive amounts under the plan except to the extent a benefit plan provides to the contrary. The Council or Authority may prescribe forms and procedures for making claims for benefits under the plan to the extent such forms or procedures are not prescribed by the terms of a benefit plan. Each person making a claim for benefits under the plan shall also furnish the Council or Authority with such documents, evidence, data or information in support of such claim as the Council or Authority considers necessary or desirable. If any claim for benefits under the plan is wholly or partially denied, the claimant shall be given

notice in writing of such denial within a reasonable period of time, but no later than forty-five (45) days after the claim is filed.

Such notice shall set forth the following information:

1. The specific reason or reasons for the denial;
2. Specific reference to pertinent plan provisions on which the denial is based;
3. A description of any additional materials or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary;
4. An explanation that a full and fair review by the Council or Authority of the decision denying the claim may be requested by the claimant or his or her authorized representative by filing with the Council or Authority, within ninety (90) days after notice of denial has been received, a written request for such hearing; and
5. If such request is so filed, the claimant or his authorized representative may review pertinent documents and submit issues and comments in writing within the same ninety-day period specified in paragraph 4 of this section. The hearing before the Council or Authority reviewing ~~the Council's~~ a claim denial shall be held no later than sixty (60) days after the ~~Council's~~ receipt by the Council or Authority of the request for hearing, unless special circumstances require an extension of time by the claimant, in which case a hearing shall be held not later than one hundred twenty (120) days after receipt of the request for hearing. The decision on the hearing shall be in writing and shall include specific reasons for the decision, written in a manner calculated to be understood by the claimant, and shall include specific references to the pertinent plan provisions on which the decision is based.

SECTION 54. This act shall become effective July 1, 1993.

SECTION 55. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-1-5270

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