

ENROLLED SENATE  
BILL NO. 368

By: Monson of the Senate  
and  
Thomas of the House

An Act relating to the Oklahoma Health Care Authority Act; amending Section 6, Chapter 332, O.S.L. 1993 (63 O.S. Supp. 1994, Section 5008), as last amended by Section 21 of Enrolled House Bill No. 1012 of the 1st Session of the 45th Oklahoma Legislature, which relates to status, powers and duties of the Administrator; modifying powers and duties of the Administrator of the Oklahoma Health Care Authority; allowing certain adjustments to certain plans and certain payments to certain schools based on certain levels of participation; deleting certain provisions relating to committee to assist with proposed plan for sharing of certain information; creating the Oklahoma Health Care Authority Risk Control Program; stating purpose; providing for voluntary participation by certain entities; providing for operation of the Program subject to certain supervision; providing for responsibilities and powers of the Program; exempting the Authority from certain licensing requirements and exempting the Program from certain taxes; providing for certain reserve fund for certain purpose; amending 63 O.S. 1991, Section 1-323, as amended by Section 8, Chapter 305, O.S.L. 1992 (63 O.S. Supp. 1994, Section 1-323), which relates to vital statistics records; requiring

State Department of Health to transmit monthly certain list to the Oklahoma Health Care Authority; providing for use of list for certain purpose; amending 75 O.S. 1991, Section 250.4, as last amended by Section 1, Chapter 384, O.S.L. 1994 (75 O.S. Supp. 1994, Section 250.4), which relates to the Administrative Procedures Act; adding Oklahoma Health Care Authority Board and Administrator to the list of entities that are exempt from the provisions of Article II of the Administrative Procedures Act; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 6, Chapter 332, O.S.L. 1993 (63 O.S. Supp. 1994, Section 5008), as last amended by Section 21 of Enrolled House Bill No. 1012 of the 1st Session of the 45th Oklahoma Legislature, is amended to read as follows:

Section 5008. A. The administrator of the Oklahoma Health Care Authority shall be the chief executive officer of the Authority and shall act for the Authority in all matters except as may be otherwise provided by law. The powers and duties of the Administrator shall include but not be limited to:

1. Supervision of the activities of the Authority;
2. Formulation and recommendation of rules for approval or rejection by the Oklahoma Health Care Authority Board and enforcement of rules and standards promulgated by the Board;
3. Preparation of the plans, reports and proposals required by the Oklahoma Health Care Authority Act, Section 5003 et seq. of this title, other reports as necessary and appropriate, and an annual budget for the review and approval of the Board; and
4. Employment of such staff as may be necessary to perform the duties of the Authority including but not limited to an attorney to provide legal assistance to the Authority for the state Medicaid program.

B. The administrator shall establish a contract bidding process which:

1. Encourages competition among entities contracting with the Authority for state-purchased and state-subsidized health care; provided, however, the Authority may make patient volume adjustments to any managed care plan whose prime contractor is a state-sponsored, nationally accredited medical school. The Authority may also make education or research supplemental payments to state-sponsored, nationally accredited medical schools based on the level of participation in any managed care plan by managed care plan participants;

2. Coincides with the state budgetary process; and
3. Specifies conditions for awarding contracts to any insuring entity.

C. The Administrator may appoint advisory committees as necessary to assist the Authority with the performance of its duties or to provide the Authority with expertise in technical matters.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5020 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created a nonprofit entity to be known as the "Oklahoma Health Care Authority Risk Control Program", hereinafter referred to as the "Program". The Program shall have as its purpose to spread the financial risks which may result from providing medical care to participants in a managed care program under the state Medicaid program.

B. The Program shall be available to qualified health plans that have contracted with the Oklahoma Health Care Authority to provide managed care to participants under the state Medicaid program.

C. The Program shall operate subject to the supervision of the Oklahoma Health Care Authority Board and the Administrator of the Authority. The Board shall set rates and promulgate rules to govern the operation of the Program.

D. The Program shall have the responsibility and power to:

1. Enter into contracts as are necessary or proper to carry out the provisions and purposes of this section;

2. Sue or be sued, including taking any legal action necessary or proper to recover any monies due and owed for, on behalf of, or against the Program or the members of the Program;

3. Take any legal action necessary to avoid the payment of improper claims against the Program;

4. Define the health benefit plans for which membership in the Program will be available and the levels of participation available to different classes of members;

5. Establish rules, conditions and procedures for participation in the Program; and

6. Contract with appropriate legal, actuarial and other professional services as necessary to provide technical assistance in the operation of the Program, policy and other contract design, and any other function within the authority of the Program.

E. The Authority, in its capacity as governing agency of the Program, shall be exempt from the licensing requirements of any other state agency pursuant to the authority granted under Section 5006 of Title 63 of the Oklahoma Statutes.

F. The Program shall be exempt from any and all premium taxes pursuant to law.

G. Monies collected from the members of the Program shall be held in a reserve account within the Medicaid Disbursing Fund until needed to pay claims. Such reserve account shall be maintained for the sole purpose of paying losses incurred by the members while providing medical care under a managed care plan for participants in the state Medicaid program.

SECTION 3. AMENDATORY 63 O.S. 1991, Section 1-323, as amended by Section 8, Chapter 305, O.S.L. 1992 (63 O.S. Supp. 1994, Section 1-323), is amended to read as follows:

Section 1-323. A. To protect the integrity of vital statistics records, to insure their proper use, and to insure the efficient and proper administration of the vital statistics system, it shall be unlawful for any person to permit inspection of, or to disclose information contained in, vital statistics records, or to copy or issue a copy of all or part of any such record except to the person who is the subject of the record or in such person's interest unless ordered to do so by a court of competent jurisdiction; provided,

however, that death certificates shall be issued upon request and the payment of applicable fees as provided in Section 1-325 of this Code.

B. The State Commissioner of Health may authorize the disclosure of data contained in vital statistics records for research purposes. Beginning July 1, 1975, and at the end of each quarter thereafter, the State Department of Health shall transmit to the Department of Public Safety a list of all registered deaths which have occurred during such period of time. Upon receipt of such list the Department of Public Safety shall use such list solely to update Department of Public Safety records and to cancel the operator's license for those deceased individuals presently holding a valid Oklahoma motor vehicle operator's license.

C. Beginning July 1, 1995, and each month thereafter, the Commissioner shall authorize the transmission to the Oklahoma Health Care Authority of a certified list of all registered deaths of residents of this state that have occurred within the state for the immediately preceding month. The Oklahoma Health Care Authority shall use the transmitted list to ascertain the names of those individuals participating in the state Medicaid program who are deceased, and shall thereafter terminate such deceased person's enrollment in the state Medicaid program.

D. Information in vital statistics records indicating that a birth occurred out of wedlock shall not be disclosed except as provided by rule or upon order of a court of competent jurisdiction.

E. For the purpose of assisting in the location and recovery of missing children, information pertaining to birth certificates and requests for copies of birth certificates shall be provided to the Oklahoma State Bureau of Investigation pursuant to the provisions of Section 1-323.1 of this title and Section 150.12A of Title 74 of the Oklahoma Statutes.

F. The Commissioner shall authorize the transmission of death certificates to the Department of Labor for the purpose of the Department of Labor conducting a census of total occupational injuries and illnesses. The Department shall transmit to the Department of Labor statistics of fatal occupational injuries that shall include the following:

1. Name of the deceased;
2. Date of death;
3. Sex;
4. Race;
5. Age;
6. Birth date;
7. Social security number;
8. Whether an autopsy was conducted;
9. Month of the accident; and
10. Whether decedent was of Hispanic origin.

G. The Department of Labor shall be required to protect the integrity of the vital statistics records to the same extent required of the Department pursuant to this section.

SECTION 4. AMENDATORY 75 O.S. 1991, Section 250.4, as last amended by Section 1, Chapter 384, O.S.L. 1994 (75 O.S. Supp. 1994, Section 250.4), is amended to read as follows:

Section 250.4 A. 1. Except as is otherwise specifically provided in this subsection, each agency is required to comply with Article I of the Administrative Procedures Act, Section 250.3 of this title.

2. The Corporation Commission shall be required to comply with the provisions of Article I of the Administrative Procedures Act except for subsections A, B, C and F of Section 303 of this title and Section 306 of this title. To the extent of any conflict or inconsistency with Article I of the Administrative Procedures Act, pursuant to Section 35 of Article IX of the Oklahoma Constitution,

it is expressly declared that Article I of the Administrative Procedures Act is an amendment to and alteration of Sections 18 through 34 of Article IX of the Oklahoma Constitution.

3. The Oklahoma Military Department shall be exempt from the provisions of Article I of the Administrative Procedures Act to the extent it exercises its responsibility for military affairs.

4. The Oklahoma Ordnance Works Authority shall be exempt from Article I of the Administrative Procedures Act.

5. The Oklahoma Transportation Commission and the Oklahoma Department of Transportation shall be exempt from Article I of the Administrative Procedures Act to the extent they exercise their authority in adopting standard specifications, special provisions, plans, design standards, testing procedures, federally imposed requirements and generally recognized standards, project planning and programming, and the operation and control of the State Highway System.

6. The Oklahoma State Regents for Higher Education shall be exempt from Article I of the Administrative Procedures Act with respect to:

- a. prescribing standards of higher education,
- b. prescribing functions and courses of study in each institution to conform to the standards,
- c. granting of degrees and other forms of academic recognition for completion of the prescribed courses,
- d. allocation of state-appropriated funds, and
- e. fees within the limits prescribed by the Legislature.

7. The Commissioner of Public Safety shall be exempt from Section 253, subsections C and D of Section 303 and Sections 303.1, 307.1, 308 and 308.1 of this title insofar as it is necessary to adopt rules under the Oklahoma Hazardous Materials Transportation and Motor Carrier Act, to maintain a current incorporation of federal motor carrier safety and hazardous material regulations for which the Commissioner has no discretion when the state is mandated to adopt rules identical to federal rules and regulations. Such rules may be adopted by the Commissioner and shall be deemed promulgated twenty (20) days after notice of adoption is published in The Oklahoma Register. Such publication need not set forth the full text of the rule but may incorporate the federal rules and regulations by reference. Provided, for any rules for which the Commissioner has discretion to allow variances, tolerances or modifications from the federal rules and regulations, the Commissioner shall fully comply with Article I of the Administrative Procedures Act.

B. As specified, the following agencies or classes of agency activities are not required to comply with the provisions of Article II of the Administrative Procedures Act:

1. The Oklahoma Tax Commission;
2. The Commission for Human Services;
3. The Oklahoma Ordnance Works Authority;
4. The Oklahoma Corporation Commission;
5. The Pardon and Parole Board;
6. The Midwestern Oklahoma Development Authority;
7. The Grand River Dam Authority;
8. The supervisory or administrative agency of any penal, mental, medical or eleemosynary institution, only with respect to the institutional supervision, custody, control, care or treatment of inmates, prisoners or patients therein; provided, that the provisions of Article II shall apply to and govern all administrative actions of the Oklahoma Alcohol Prevention, Training, Treatment and Rehabilitation Authority;

9. The Board of Regents or employees of any university, college, or other institution of higher learning, except with respect to expulsion of any student for disciplinary reasons;

provided, that upon any alleged infraction by a student of rules of such institutions, with a lesser penalty than expulsion, such student shall be entitled to such due process, including notice and hearing, as may be otherwise required by law, and the following grounds of misconduct, if properly alleged in disciplinary proceedings against a student, shall be cause to be barred from the campus and be removed from any college or university-owned housing, upon conviction in a court of law:

- a. participation in a riot as defined by the penal code,
- b. possession or sale of any drugs or narcotics prohibited by the penal code, or
- c. willful destruction of or willful damage to state property;

10. The Oklahoma Horse Racing Commission, its employees or agents only with respect to hearing and notice requirements on the following classes of violations which are an imminent peril to the public health, safety and welfare:

- a. any rule regarding the running of a race,
- b. any violation of medication laws and rules,
- c. any suspension or revocation of an occupation license by any racing jurisdiction recognized by the Commission,
- d. any assault or other destructive acts within Commission-licensed premises,
- e. any violation of prohibited devices, laws and rules,
- f. any filing of false information;

11. The Commissioner of Public Safety only with respect to drivers' license hearings and hearings conducted pursuant to the provisions of Section 2-115 of Title 47 of the Oklahoma Statutes;

12. The Administrator of the Department of Securities only with respect to hearings conducted pursuant to provisions of the Oklahoma Take-over Disclosure Act of 1985;

13. Hearings conducted by a public agency pursuant to Section 962 of Title 47 of the Oklahoma Statutes;

14. The Oklahoma Military Department;

15. The Oklahoma Transportation Commission and the Oklahoma Department of Transportation until January 1, 1990;

16. The University Hospitals Authority, including all hospitals or other institutions operated by the University Hospitals Authority; and

17. The Oklahoma Health Care Authority Board and the Administrator of the Oklahoma Health Care Authority.

SECTION 5. 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.