STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1499 By: Stanley of the House

and

Shurden of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to public health and safety; amending 63 O.S. 1991, Section 1-103, 1-104 and 1-106, as amended by Section 20, Chapter 230, O.S.L. 1995 (63 O.S. Supp. 1996, Section 1-106), which relates to the State Board of Health and the Commissioner of Health; deleting out-of-date language; adding and clarifying qualifications for State Commissioner of Health; amending Section 8, Chapter 347, O.S.L. 1992, as last amended by Section 4, Chapter 350, O.S.L. 1994 (63 O.S. Supp. 1996, Section 1-122), which relates to the Health Care Information Advisory Committee; removing out-of-date language and making Administrator of the Oklahoma Health Care Authority responsible for appointments; amending 63 O.S. 1991, Sections 2-309D and 2-309G, which relate to the central repository; updating language; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-103, is amended to read as follows:

Section 1-103. ~~(a)~~ A. There is hereby created the State Board of Health, which shall consist of nine (9) members appointed by the Governor and confirmed by the Senate for regular terms of nine (9) years, except as hereinafter otherwise indicated~~; provided, however, that members serving on the State Board of Health created by 63 O.S. 1961, Sec. 1.1, when this Code becomes effective shall continue to serve as members of the State Board of Health created by this section for the terms for which they were appointed~~. Not less than four members shall be licensed as

physicians and surgeons by the State Board of Medical Licensure and Supervision and shall be members of the Oklahoma State Medical Association, one member of which shall be a diplomate of the American Board of Psychiatry and Neurology or be similarly qualified.

~~(b)~~ B. 1. The term of office of one member shall expire on June 30, 1964, and each nine (9) years thereafter, and ~~he~~ such member shall be a resident of one of the following counties and shall have been a resident of one or more of such counties for not less than five (5) years immediately preceding ~~his~~ such member's appointment: Creek, Lincoln, Okfuskee, Seminole, Pottawatomie, Pontotoc, Hughes, Johnston, and Coal.

~~(c)~~ 2. The term of office of one member shall expire on June 30, 1965, and each nine (9) years thereafter, and ~~he~~ such member shall be a resident of one of the following counties and shall have been a resident of one or more of such counties for not less than five (5) years immediately preceding ~~his~~ such member's appointment: Blaine, Kingfisher, Canadian, Caddo, Grady, Comanche, Stephens, Jefferson, and Cotton.

~~(d)~~ 3. The term of office of one member shall expire on June 30, 1966, and each nine (9) years thereafter, and ~~he~~ such member shall be a resident of one of the following counties and shall have been a resident of one or more of such counties for not less than five (5) years immediately preceding ~~his~~ such member's appointment: Le Flore, Latimer, Pittsburg, Atoka, Pushmataha, McCurtain, Choctaw, Bryan, Marshall, Carter, and Love.

~~(e)~~ 4. The term of office of one member shall expire on June 30, 1967, and each nine (9) years thereafter, and ~~he~~ such member shall be a resident of one of the following counties and shall have been a resident of one or more of such counties for not less than five (5) years immediately preceding ~~his~~ such member's appointment: Cimarron, Texas, Beaver, Harper, Woodward, Woods, Major, Alfalfa, Grant, Garfield, Kay, and Noble.

~~(f)~~ 5. The term of office of one member shall expire on June 30, 1968, and each nine (9) years thereafter, and ~~he~~ such member shall be a resident of one of the following counties and shall

have been a resident of one or more of such counties for not less than five (5) years immediately preceding ~~his~~ such member's appointment: Adair, Sequoyah, Cherokee, Wagoner, Muskogee, Haskell, McIntosh, and Okmulgee.

~~(g)~~ 6. The term of office of one member shall expire on June 30, 1969, and each nine (9) years thereafter, and ~~he~~ such member shall be a resident of one of the following counties and shall have been a resident of one or more of such counties for not less than five (5) years immediately preceding ~~his~~ such member's appointment: Ottawa, Delaware, Craig, Mayes, Nowata, Rogers, Washington, Tulsa, Pawnee, and Osage.

~~(h)~~ 7. The term of office of one member shall expire on June 30, 1970, and each nine (9) years thereafter, and ~~he~~ such member shall be a resident of one of the following counties and shall have been a resident of one or more of such counties for not less than five (5) years immediately preceding ~~his~~ such member's appointment: Logan, Oklahoma, Cleveland, McClain, Garvin, Murray, and Payne.

~~(i)~~ 8. The term of office of one member shall expire on June 30, 1971, and each nine (9) years thereafter, and ~~he~~ such member shall be a resident of one of the following counties and shall have been a resident of one or more of such counties for not less than five (5) years immediately preceding ~~his~~ such member's appointment: Ellis, Dewey, Roger Mills, Custer, Beckham, Washita, Kiowa, Greer, Jackson, Harmon, and Tillman.

~~(j)~~ 9. The term of office of one member shall expire on June 30, 1972, and each nine (9) years thereafter, and ~~he~~ such member shall be appointed from the State of Oklahoma at large, and shall have been a resident of the state for not less than five (5) years immediately preceding ~~his~~ such member's appointment.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 1-104, is amended to read as follows:

Section 1-104. ~~(a)~~ A. The State Board of Health shall elect annually from its membership a President, Vice President and Secretary. The Board shall adopt rules ~~and regulations~~ for its government, and may adopt an official seal for the State

Department of Health. It shall hold such meetings as it deems necessary~~, which may be either in Oklahoma City or at an institution under the jurisdiction of the Board or the State Commissioner of Health~~. Each member of the Board shall be paid travel expenses, as provided in the State Travel Reimbursement Act.

~~(b)~~ B. The Board shall have the following powers and duties:

~~(1)~~ 1. Appoint and fix the compensation of a State Commissioner of Health~~.~~;

~~(2)~~ 2. Adopt such rules~~, regulations,~~ and standards as it deems necessary to carry out any of the provisions of this Code~~.~~;

~~(3)~~ 3. Accept and disburse grants, allotments, gifts, devises, bequests, funds, appropriations, and other property made or offered to it; and

~~(4)~~ 4. Establish such divisions, sections, bureaus, offices, and positions in the State Department of Health as it deems necessary to carry out the provisions of this Code.

SECTION 3. AMENDATORY 63 O.S. 1991, Section 1-106, as amended by Section 20, Chapter 230, O.S.L. 1995 (63 O.S. Supp. 1996, Section 1-106), is amended to read as follows:

Section 1-106. A. The State Commissioner of Health shall serve at the pleasure of the State Board of Health, and shall have skill and experience in public health duties and sanitary sciences and shall meet at least one ~~(1)~~ of the following qualifications:

1. Possession of a Doctor of Medicine Degree ~~or a Doctor of Osteopathy Degree~~ and a license to practice medicine in this state; ~~or~~

2. Possession of an Osteopathic Medicine Degree and a license to practice medicine in this state;

3. Possession of a ~~doctoral degree~~ Doctoral degree in Public Health or Public Health Administration; or

4. Possession of a Master of Science Degree and a minimum of five (5) years of supervisory experience in the administration of health services.

B. The Commissioner shall have the following powers and duties, unless otherwise directed by the State Board of Health:

1. Have general supervision of the health of the citizens of the state; make investigations, inquiries and studies concerning the causes of disease, and especially of epidemics, and the causes of mortality, and the effects of localities, employment, conditions and circumstances on the public health; investigate conditions as to health, sanitation and safety of schools, prisons, public institutions, mines, public conveyances, camps, places of group abode, and all buildings and places of public resort, and recommend, prescribe and enforce such measures of health, sanitation and safety for them as ~~he~~ the Commissioner deems advisable; take such measures as ~~he deems~~ deemed necessary by the Commissioner to control or suppress, or to prevent the occurrence or spread of, any communicable, contagious or infectious disease, and provide for the segregation and isolation of persons having or suspected of having any such disease; designate places of quarantine or isolation; advise state and local governments on matters pertaining to health, sanitation and safety; and abate any nuisance affecting injuriously the health of the public or any community.

2. Be the executive officer and supervise the activities of the State Department of Health, and act for the Department in all matters except as may be otherwise provided in this Code; administer oaths at any hearing or investigation conducted pursuant to this Code; and enforce rules~~, regulations~~ and standards adopted by the State Board of Health. All rules ~~and regulations~~ adopted by the State Board of Health are subject to the terms and conditions of the Administrative Procedures Act.

3. Appoint an Assistant State Commissioner of Health and fix ~~his~~ the qualifications, duties and compensation of the Assistant State Commissioner of Health; and employ, appoint and contract with, and fix the qualifications, duties and compensation of, such other assistants, doctors, engineers, attorneys, sanitarians, nurses, laboratory personnel, administrative, clerical and technical help, investigators, aides and other personnel and help, either on a full-time, part-time, fee or contractual basis, as ~~in his judgment and discretion~~ shall be deemed by the Commissioner

necessary, expedient, convenient or appropriate to the performance or carrying out of any of the purposes, objectives or provisions of this Code, or to assist ~~him~~ the Commissioner in the performance of ~~his~~ official duties and functions.

4. Cause investigations, inquiries and inspections to be made, and hold hearings and issue orders pursuant to the provisions of the Administrative Procedures Act, to enforce and make effective the provisions of this Code, and all rules~~, regulations~~ and standards adopted by the State Board of Health pursuant to law and the Commissioner or the representative of the Commissioner shall have the right of access to any premises for such purpose at any reasonable time, upon presentation of identification.

5. Authorize persons in the State Department of Health to conduct investigations, inquiries and hearings, and to perform other acts that the Commissioner is authorized or required to conduct or perform personally.

6. Except as otherwise provided by law, all civil and criminal proceedings under this Code shall be initiated and prosecuted by the district attorney where the violation takes place.

7. Issue subpoenas for the attendance of witnesses and the production of books and records at any hearing to be conducted by the Commissioner or the State Board of Health; and if a person disobeys any such subpoena, or refuses to give evidence before, or to allow ~~his~~ books and records to be examined by, the Commissioner or the Board after ~~he~~ such person is directed to do so, the Commissioner may file a contempt proceeding in the district ~~or superior~~ court of the county in which the premises involved are situated, or, if no premises are involved, of the county in which such person resides or has ~~his~~ a principal place of business, and a judge of such court, after a trial de novo, may punish the offending person for contempt.

8. Unless otherwise required by the terms of a federal grant, sell, exchange or otherwise dispose of personal property that has been acquired by the State Department of Health, or any of its

components, when such property becomes obsolete or is no longer needed; any money derived therefrom shall be deposited in the Public Health Special Fund.

9. Sell films, educational materials, biological products and other items produced by the State Department of Health; and all proceeds therefrom shall be deposited in the Public Health Special Fund.

10. Revoke or cancel, or suspend for any period up to one (1) year, any license or permit issued under or pursuant to this Code, or by the Commissioner, when ~~he~~ the Commissioner determines that ground therefor as prescribed by this Code exists, or that the holder of such license or permit has violated any law, or any of the provisions of this Code, or any rules~~, regulations~~ or standards of the State Board of Health filed with the Secretary of State, but ~~he~~ the Commissioner shall first afford the holder an opportunity to show cause why the license or permit should not be revoked, canceled or suspended, notice of such opportunity to be given by ~~registered or~~ certified United States Mail to the holder of the license or permit at ~~his~~ the last-known address of such holder.

11. Accept, use, disburse and administer grants, allotments, gifts, devises, bequests, appropriations and other monies and property offered or given to the State Department of Health, or any component or agency thereof, by any agency of the federal government, or any corporation or individual.

12. Be the official agency of the State of Oklahoma in all matters relating to public health which require or authorize cooperation of the State of Oklahoma with the federal government or any agency thereof; coordinate the activities of the State Department of Health with those of the federal government or any department or agency thereof, and with other states, on matters pertaining to public health, and enter into agreements for such purpose, and ~~in his discretion~~ may accept, use, disburse and administer, for ~~his~~ the office of the Commissioner or for the State Department of Health, for any purpose designated and on the terms and conditions thereof, grants of money, personnel and

property from the federal government or any department or agency thereof, or from any state or state agency, or from any other source, to promote and carry on in this state any program relating to the public health or the control of disease, and enter into agreements for such purposes.

13. The Commissioner of Health may appoint commissioned peace officers, certified by the Council on Law Enforcement Education and Training, to investigate violations of the Public Health Code and to provide security to Department facilities.

SECTION 4. AMENDATORY Section 8, Chapter 347, O.S.L. 1992, as last amended by Section 4, Chapter 350, O.S.L. 1994 (63 O.S. Supp. 1996, Section 1-122), is amended to read as follows:

Section 1-122. A. The ~~Commissioner of Health~~ Administrator of the Oklahoma Health Care Authority 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, Section 1-115 et seq. of this title, 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 Commissioner of Health or designee and the presidents of the following organizations or their designees:

1. The Oklahoma State Chamber of Commerce;
2. The Oklahoma Hospital Association;
3. The Oklahoma State Medical Association;
4. The Oklahoma Osteopathic Association;
5. The Oklahoma AFL-CIO;
6. A statewide health care consumer coalition;
7. The Association of Oklahoma Life Insurance Companies;
8. The Oklahoma Health Care Association;
9. The Oklahoma Pharmaceutical Association;

10. The Oklahoma Dental Association;

11. The ~~Joint~~ Oklahoma State Chiropractic Association ~~of Oklahoma~~;

12. The Oklahoma Optometric Association;

13. The Oklahoma Physical Therapy Association;

14. The Oklahoma Podiatric Medical Association;

15. The Oklahoma Psychological Association; and

16. The Oklahoma Association of Home Care.

C. The Division, with the approval of the ~~State Commissioner of Health or~~ Administrator of 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.

The Health Care Information Advisory Committee and any technical advisory committees established pursuant to this section shall provide information and assistance to any legislative committee or task force requesting such information or assistance.

SECTION 5. AMENDATORY 63 O.S. 1991, Section 2-309D, is amended to read as follows:

Section 2-309D. A. The information collected at the central repository pursuant to the Anti-Drug Diversion Act shall be confidential and shall not be open to the public. Access to the information shall be limited to:

1. Peace officers certified pursuant to Section 3311 of Title 70 of the Oklahoma Statutes who are employed as investigative agents of the Bureau;

2. The United States Drug Enforcement Administration Diversion Group Supervisor;

3. The executive director or chief investigator, as designated by each board, of the ~~State Boards of Podiatry, Governors of Registered Dentists,~~ following state boards:

a. Board of Podiatric Medical Examiners,

b. Board of Dentistry,

c. Board of Pharmacy,

d. State Board of Medical Licensure and Supervision,

e. State Board of Osteopathic Examiners, and

f. Board of Veterinary Medical Examiners;

provided, however, that the executive director or chief investigator of each of these boards shall be limited to access to information relevant to licensees of ~~his~~ the employing board of such executive director or chief investigator; and

4. A ~~multi-county~~ multicounty grand jury properly convened pursuant to the Multicounty Grand Jury Act, Sections 350 through 363 of Title 22 of the Oklahoma Statutes.

B. This section shall not prevent the disclosure, at the discretion of the Director of the Bureau, of investigative information to peace officers and investigative agents of federal, state, county or municipal law enforcement agencies, district attorneys and the Attorney General in furtherance of criminal investigations or prosecutions within their respective jurisdictions.

C. Any unauthorized disclosure of any information collected at the central repository provided by the Anti-Drug Diversion Act shall be a misdemeanor. Violation of the provisions of this section shall be deemed willful neglect of duty and shall be grounds for removal from office.

SECTION 6. AMENDATORY 63 O.S. 1991, Section 2-309G, is amended to read as follows:

Section 2-309G. The Bureau shall develop criteria for the production of exception reports out of the information collected at the central repository. ~~The~~ In developing these criteria, the Bureau shall seek the counsel of the ~~State Boards of Podiatry, Governors of Registered Dentists,~~ following entities:

1. Board of Podiatric Medical Examiners;

2. Board of Dentistry;

3. Board of Pharmacy~~,~~;

4. State Board of Medical Licensure and Supervision~~,~~;

5. State Board of Osteopathic Examiners~~, and~~;

6. Board of Veterinary Medical Examiners~~, and the~~;

7. Oklahoma ~~Podiatry~~ Podiatric Medical Association~~,~~;

8. Oklahoma Dental Association~~,~~;

9. Oklahoma Pharmaceutical Association~~,~~;

10. Oklahoma State Medical Association~~,~~;

11. Oklahoma Osteopathic Association; and

12. Oklahoma Veterinary Medical Association ~~in developing these criteria~~.

SECTION 7. This act shall become effective November 1, 1997.

46-1-7496 KSM