

ENROLLED HOUSE
BILL NO. 2868

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2701 of Title 63, unless there is created a duplication in numbering, reads as follows:

There is hereby created, to continue until July 1, 2004, in accordance with the provisions of the Oklahoma Sunset Law, the Telemedicine Advisory Council.

A. All members of the Council shall be at least generally knowledgeable of the technology utilized for telemedicine or shall be represented by designees who have such knowledge. The membership of the Council shall be as follows:

1. Ex officio and voting members:
 - a. the Administrator of the Oklahoma Health Care Authority,
 - b. the Administrator of the State and Education Employees Group Insurance Board,
 - c. the Commissioner of Health,
 - d. the Director of the Department of Corrections,
 - e. the Chancellor of Higher Education, and
 - f. the Director of Human Services;
2. Voting members appointed by the Governor:
 - a. an executive of a tertiary hospital,
 - b. an executive of a regional hospital,
 - c. three persons who shall each be an executive of a not-for-profit rural hospital, clinic, or other not-for-profit entity presumed to be a user of services provided by means of telemedicine, and
 - d. a medical director of a health maintenance organization;
3. Voting members appointed by the President Pro Tempore of the Senate:
 - a. a member of the Senate,
 - b. a representative of a hospital association, and
 - c. a representative of an association of medical professionals;
4. Voting members appointed by the Speaker of the House of Representatives:
 - a. a member of the House of Representatives,
 - b. a representative of an association of medical professionals, and
 - c. a representative of a rural development body; and
5. Not more than five additional members to be appointed by the Council, if the Council so desires, and for such term or terms of service as the Council desires.

B. Appointees shall serve at the pleasure of the appointing authority. Vacancies shall be filled in the same manner as original appointments.

C. A quorum shall consist of at least three of the ex officio members and at least six of the appointed members.

D. The Governor shall, from among the ex officio or appointed members, appoint a member to chair the Council, to serve until July 1, 1999. At its first meeting, the Council shall elect a member as vice-chair. At that time or at any subsequent meeting, the Council may elect such other officers as it deems appropriate. Officers shall serve terms ending June 30 of each year. No officer shall serve more than two terms in any one office. Chairs to serve terms beginning July 1, 1999, and thereafter shall be elected by the Council from among its membership.

E. Members shall receive no compensation for serving on the Council but shall receive travel reimbursement as follows:

1. Legislative members shall be reimbursed for their necessary travel expenses incurred in the performance of their duties in accordance with Section 456 of Title 74 of the Oklahoma Statutes;

2. Nonlegislative members who are state officers or employees shall be reimbursed by their respective agencies for their necessary travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act; and

3. Members who are not legislators or officers or employees of the state shall be reimbursed by the State Department of Health in accordance with the State Travel Reimbursement Act.

F. Staff assistance for the Council shall be provided by the State Department of Health.

G. The Council shall be an advisory body without authority to receive or expend state funds or to promulgate rules. It shall be exempt from the Oklahoma Open Records Act but shall comply with the Oklahoma Open Meeting Act; provided, the Council may go into executive session to review and discuss proprietary information.

H. The Council shall:

1. Study the apparent barriers to the development of effective telemedicine services in this state and make recommendations to public agencies and private entities for the overcoming of barriers found;

2. Engage with any and all parties to encourage the development of contracts or other agreements whereby entities needing telemedicine services can obtain them pursuant to reasonable terms and conditions;

3. Meet with the Director of Information Services of the Office of State Finance and such other persons as are instrumental to the provision of telecommunications services to address problems, develop policies, and otherwise improve the delivery of telemedicine services;

4. Advise the Governor and the members of the Legislature regarding the improvement of public policy relating to telemedicine;

5. Make recommendations on methods of ensuring that the telehealth system supports and meets the needs of a statewide trauma system and the needs of critical access hospitals, and utilizes available federal funds to the maximum extent possible;

6. Make recommendations on the integration of new and emerging technologies and applications for the delivery of health care services through telecommunications into the telehealth system; and

7. Generally use its good offices for the furtherance of telemedicine in this state.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2702 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. On and after July 1, 1998, the State Department of Health shall be the state entity designated by law to assume the responsibilities for telemedicine and the network known as the Oklahoma Telemedicine Network. The Department shall be responsible for the maintenance and development of the Network. The Department shall also be responsible for the continued development and implementation of a statewide system for the delivery of medical and other health care services through a telehealth system. In order to achieve these duties, the Department shall:

1. Assess the current status and needs of the Network and telehealth in the state;

2. Develop recommendations on the future development of the Network and on the future needs for a statewide telehealth system in the state;

3. Coordinate the efforts of hospitals in the Network;

4. Explore ways to provide reimbursement to providers for telehealth services;

5. Review the training needs of medical personnel in telehealth technology;

6. Explore the feasibility of providing health education services through a telehealth system; and

7. Study issues of compatibility of technology.

B. The Department shall enter into an agreement with the Oklahoma State University Telemedicine Center to provide the Department with assistance in carrying out the provisions of this section.

C. The State Department of Health shall provide appropriate technical support and assistance to hospitals on the Network.

D. The Department may form advisory groups as is necessary to work with the Department on telehealth issues.

E. The Department shall work in conjunction and in consultation with the Telemedicine Advisory Council created in Section 1 of this act.

SECTION 3. AMENDATORY Section 2, Chapter 347, O.S.L. 1992, as last amended by Section 1, Chapter 350, O.S.L. 1994 (63 O.S. Supp. 1997, Section 1-116), is amended to read as follows:

Section 1-116. When used in the Oklahoma Health Care Information System Act, Section 1-115 et seq. of this title:

1. "Board" means the State Board of Health;

2. "Commissioner" means the State Commissioner of Health;

3. "Department" means the State Department of Health;

4. "Health care providers" means a hospital or related institution licensed pursuant to Section 1-702 of Title 63 of the Oklahoma Statutes, nursing facilities licensed pursuant to Section 1-1903 of Title 63 of the Oklahoma Statutes, doctors as defined in Section 725.2 of Title 59 of the Oklahoma Statutes, physical therapists, physician assistants, pharmacists, nurses and home health care providers licensed pursuant to the laws of this state;

5. "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. "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. "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 1-120 of this title;

8. "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. "Division" means the Division of Health Care Information; and

10. "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 4. AMENDATORY Section 3, Chapter 347, O.S.L. 1992 (63 O.S. Supp. 1997, Section 1-117), is amended to read as follows:

Section 1-117. A. As a result of rising health care costs and concerns expressed by health care providers, health care consumers, third-party payors and the general public, and as a result of public health information showing that Oklahoma has a higher death rate than the national average, the Oklahoma Legislature finds that there is an urgent need to establish and maintain, for the purposes of accurately assessing the health of the public, health care planning and cost containment, an information base for the State of Oklahoma that will facilitate ongoing analysis and evaluation of patterns and trends in the health status of Oklahomans, the utilization and costs of health care services, and the capability of the various components of the health care industry to provide needed services.

B. The Oklahoma Health Care Information System shall be responsible for the development and operation of a method for collecting, processing and disseminating health care data including, but not limited to, quality, expenditure and utilization data. It is the intent of the Legislature that a uniform set of data be periodically and routinely compiled that will make possible the ongoing analysis, comparison and evaluation of trends in the quality and delivery of health care services in this state for the purpose of effective health care planning by public and private entities and cost containment.

SECTION 5. AMENDATORY Section 4, Chapter 347, O.S.L. 1992, as amended by Section 16, Chapter 332, O.S.L. 1993 (63 O.S. Supp. 1997, 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.

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 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.

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 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 shall be deposited in the Oklahoma Health Care Information System Revolving Fund account.

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.

SECTION 6. AMENDATORY Section 5, Chapter 347, O.S.L. 1992, as last amended by Section 5, Chapter 221, O.S.L. 1996 (63 O.S. Supp. 1997, 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, 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,
- 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, and
- e. ambulatory care data including, but not limited to, provider-specific and encounter data.

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 provided by Section 1-120 of this title and 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 regard 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. Upon the request of the State Department of Health, every state agency, board or commission shall provide the Division of Health Care Information with the health care data and other health care information requested at no charge to the Department or the Division. Except as otherwise provided by the Health Care Information System Act for the purpose of statistical and similar reports, information which is required by state or federal law to be confidential shall not be transferred to any entity by the Division unless a separate written agreement for such transfer has been executed with the state agency, board or commission providing the information to the Division.

C. The University of Oklahoma College of Public Health, the Department of Human Services, the Department of Mental Health and Substance Abuse Services and the Oklahoma Health Care Authority 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 and each specified entity on an individual basis.

SECTION 7. AMENDATORY Section 6, Chapter 347, O.S.L. 1992, as last amended by Section 3, Chapter 350, O.S.L. 1994 (63 O.S. Supp. 1997, Section 1-120), is amended to read as follows:

Section 1-120. A. Except as otherwise provided by Section 1-119 of this 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, Section 1-115 et seq. of this title, 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, 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 1-122 of this 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 shall be subject to the same confidentiality restrictions imposed by state or federal law as the public or private agency providing the information and 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 8. AMENDATORY Section 7, Chapter 347, O.S.L. 1992, as amended by Section 19, Chapter 332, O.S.L. 1993 (63 O.S. Supp. 1997, Section 1-121), is amended to read as follows:

Section 1-121. The State Department of Health 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 9. AMENDATORY Section 8, Chapter 347, O.S.L. 1992, as last amended by Section 4, Chapter 238, O.S.L. 1997 (63 O.S. Supp. 1997, 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.

B. The membership of the Health Care Information Advisory Committee shall include, but not be limited to, the Administrator of the Oklahoma Health Care Authority 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 Oklahoma State Chiropractic Association;
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 Commissioner, 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 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-123.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

Effective July 1, 1998, all powers, duties, functions, personnel and responsibilities vested in the Oklahoma Health Care Authority for operation of the Oklahoma Health Care Information Systems Act shall be transferred to the State Department of Health.

SECTION 11. AMENDATORY Section 12, Chapter 332, O.S.L. 1993, as amended by Section 2, Chapter 109, O.S.L. 1997 (63 O.S. Supp. 1997, Section 5014), is amended to read as follows:

Section 5014. A. 1. On and after July 1, 1997, the Oklahoma Basic Health Benefits Board is hereby abolished, and the powers, duties and responsibilities exercised by such Board pursuant to law are hereby transferred to the Oklahoma Health Care Authority Board. All unexpended funds, property, records, personnel and any outstanding financial obligations and encumbrances of such Board are hereby transferred to the Oklahoma Health Care Authority Board.

2. The Director of State Finance is hereby directed to coordinate the transfer of funds, allotments, purchase orders, outstanding financial obligations or encumbrances provided for in this section.

B. 1. With regard to any program or function of the Oklahoma Basic Health Benefits Board transferred to the Oklahoma Health Care Authority Board, any rules, contracts, procedures, or agreements relating to such programs or functions are hereby transferred to the Oklahoma Health Care Authority Board for the purpose of maintaining and operating such programs and functions pursuant to law.

2. Unexpired contracts entered into by the Oklahoma Basic Health Benefits Board prior to July 1, 1995, shall remain valid for stated terms and conditions until otherwise terminated by the terms of the contract, by breach of the contract or as otherwise provided by law.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3228 of Title 63, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Legislature, recognizing the advancement of technology in medicine and its benefits, hereby authorizes the implementation of a telemedicine pilot program for inmates from correctional institutions. The purpose of the pilot program shall be to provide verifiable data on how telemedicine can improve medical services for correctional inmate patients and at a lower cost than the present system of medical care for inmate patients. The pilot program shall be developed by the University Hospitals Trust and the Department of Corrections, working in conjunction with the University Hospital, the University of Oklahoma Health Sciences Center and Griffin Memorial Hospital. The pilot program shall be implemented through an agreement between the University Hospitals Trust and the Department of Corrections and other participating entities. At a minimum, the pilot program shall involve telemedicine connections between two Department of Corrections institutions, the University Hospital, and Griffin Memorial Hospital.

SECTION 13. AMENDATORY Section 1 of Enrolled House Bill No. 2280 of the 2nd Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 1. A. There is hereby created until February 15, 1999, the Advisory Task Force on SoonerCare. The Task Force shall consist of twenty-one (21) members as follows:

1. Three members representing hospitals, selected from a list of names submitted by a statewide hospital organization;
2. Three primary care physicians, selected from a list of names submitted by statewide organizations representing allopathic or osteopathic physicians;
3. Three emergency room physicians, selected from a list of names submitted by statewide organizations representing allopathic or osteopathic physicians;
4. Three members representing participating health maintenance organizations;
5. Three members representing the Oklahoma Health Care Authority;
6. Three members representing the Department of Human Services; and
7. Three members who are enrollees in SoonerCare at the time of their appointment.

B. The President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor shall each appoint one member from each of the above categories.

C. The members shall choose a chair from among their membership. The Oklahoma Health Care Authority shall call the initial meeting of the Advisory Task Force on SoonerCare no later than August 1, 1998, and the Task Force shall meet no less than monthly thereafter.

D. A majority of members of the Task Force shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of the Task Force. The Oklahoma Health Care Authority shall provide such staff support as is required by the Task Force.

E. Members of the Advisory Task Force on SoonerCare shall receive no compensation for serving on the Task Force, but shall receive travel reimbursement as follows:

1. State employee members of the Task Force shall be reimbursed for their necessary travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act; and

2. Members of the Task Force who are not otherwise officers or employees of the state shall be reimbursed by the appointing authorities in accordance with the State Travel Reimbursement Act.

SECTION 14. This act shall become effective July 1, 1998.

SECTION 15. 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.