

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 CONFERENCE COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED

5 HOUSE BILL NO. 1188

6 By: Thornbrugh of the House

7 and

8 Weedn of the Senate

9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to public health and safety;  
11 requiring certain hospitals and centers to furnish  
12 verification that certain percentage of gross  
13 revenues are from certain other revenues; requiring  
14 submission of certain financial statements to the  
15 State Commissioner of Health; providing billing  
16 procedures; providing for distribution of certain  
17 funds; prohibiting certain uses; prohibiting certain  
18 reversions; setting procedure for determining  
19 threshold; providing certain fee for failure to meet  
20 threshold; providing for deposit; specifying certain  
21 penalties; providing for grievance procedure;  
22 defining terms; amending 63 O.S. 1991, Section 1-707,  
23 as amended by Section 6 of Enrolled House Bill No.  
24 1184 of the 1st Session of the 47th Oklahoma  
25 Legislature, which relates to hospitals; modifying  
26 powers and duties of the Oklahoma Hospital Advisory  
27 Council; amending Section 12, Chapter 139, O.S.L.  
28 1992, as amended by Section 9 of Enrolled House Bill  
29 No. 1184 of the 1st Session of the 47th Oklahoma  
30 Legislature, which relates to the Home Health  
31 Advisory Board; modifying appointment procedures;  
32 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 1-702b of Title 63, unless there  
is created a duplication in numbering, reads as follows:

A. Any hospital, specialty hospital or ambulatory surgery  
center which has not received approval to construct a new facility  
from the State Commissioner of Health by the effective date of this  
act, shall be required to provide, and shall furnish annually,

1 written verification as evidenced by a Medicare cost report and/or  
2 audited financial statements to the Commissioner that at least  
3 thirty percent (30%) of its annual gross revenues are from Medicare,  
4 Medicaid, uncompensated care, and/or corporate tax contributions.

5 B. 1. Within ninety (90) days following the conclusion of a  
6 facility's fiscal year, the facility shall furnish to the  
7 Commissioner necessary documentation of compliance with the thirty  
8 percent (30%) threshold as specified in this section.

9 2. For facilities not meeting the thirty percent (30%)  
10 threshold, a fee shall be assessed for the difference. In no  
11 instance shall the fee exceed thirty percent (30%) of a facility's  
12 total annual gross revenue. The Commissioner shall bill each  
13 facility determined to owe a fee. Fees collected by the  
14 Commissioner shall be deposited into an uncompensated care fund.  
15 Disbursement from the fund shall be made to facilities that exceed  
16 the thirty percent (30%) threshold.

17 C. 1. On an annual basis, the Commissioner shall distribute  
18 the balance of the fund to facilities on a pro rata share determined  
19 by the uncompensated care percentages reported by facilities for the  
20 last reported fiscal year.

21 2. No portion of uncompensated care fund shall be used for any  
22 purpose other than described in this section.

23 3. Any money remaining in the fund at the end of the state's  
24 fiscal year shall not revert to the General Fund.

25 D. Failure of a facility to report to the Commissioner within  
26 the reporting period shall be grounds for termination of operating  
27 license. Failure of a facility to pay the assessed fee shall be  
28 grounds for termination of operating license. A grievance procedure  
29 policy will be implemented by rules established by the Commissioner.

30 E. For purposes of this section:  
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1        1. "Uncompensated care" means care provided for which no  
2 payment was received from the patient or insurer. Uncompensated  
3 care is the sum of a facility's bad debt and charity care;

4        2. "Charity care" means care for which a facility never  
5 expected to be reimbursed; and

6        3. "Tax contributions" means federal and state corporate taxes  
7 and state property taxes paid by a facility. Sales tax credit for  
8 inclusion in this formula is prohibited.

9        SECTION 2.        AMENDATORY        63 O.S. 1991, Section 1-707, as  
10 amended by Section 6 of Enrolled House Bill No. 1184 of the 1st  
11 Session of the 47th Oklahoma Legislature, is amended to read as  
12 follows:

13        Section 1-707. A. The State Board of Health, upon the  
14 recommendation of the State Commissioner of Health and with the  
15 advice of the Oklahoma Hospital Advisory Council, shall promulgate  
16 rules and standards as it deems to be in the public interest for  
17 hospitals, on the following:

18        1. Construction plans and location, including fees not to  
19 exceed Two Thousand Dollars (\$2,000.00) for submission or  
20 resubmission of architectural and building plans, and procedures to  
21 ensure the timely review of such plans by the State Department of  
22 Health. Said assessed fee shall be used solely for the purposes of  
23 processing approval of construction plans and location by the State  
24 Department of Health;

25        2. Physical plant and facilities;

26        3. Fire protection and safety;

27        4. Food service;

28        5. Reports and records;

29        6. Staffing and personal service;

30        7. Surgical facilities and equipment;

31        8. Maternity facilities and equipment;

32        9. Control of communicable disease;

- 1 10. Sanitation;
- 2 11. Laboratory services;
- 3 12. Nursing facilities and equipment; and
- 4 13. Other items as may be deemed necessary to carry out the
- 5 purposes of this article.

6 B. 1. The State Board of Health, upon the recommendation of  
7 the State Commissioner of Health and with the advice of the Oklahoma  
8 Hospital Advisory Council and the State Board of Pharmacy, shall  
9 promulgate rules and standards as it deems to be in the public  
10 interest with respect to the storage and dispensing of drugs and  
11 medications for hospital patients.

12 2. The State Board of Pharmacy shall be empowered to inspect  
13 drug facilities in licensed hospitals and shall report violations of  
14 applicable statutes and rules to the State Department of Health for  
15 action and reply.

16 C. 1. The Commissioner shall appoint an Oklahoma Hospital  
17 Advisory Council to advise the Board, the Commissioner and the  
18 Department regarding hospital operations and to recommend actions to  
19 improve patient care.

- 20 2. The Advisory Council shall have the duty and authority to:
- 21 a. review and approve in its advisory capacity rules and  
22 standards for hospital licensure,
  - 23 b. evaluate, review and make recommendations regarding  
24 Department licensure activities, provided however, the  
25 Advisory Council shall not make recommendations  
26 regarding scope of practice for any health care  
27 providers or practitioners regulated pursuant to Title  
28 59 of the Oklahoma Statutes, and
  - 29 c. recommend and approve:
    - 30 (1) quality indicators and data submission  
31 requirements for hospitals, and
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1 (2) the indicators and data to be used by the  
2 Department to monitor compliance with licensure  
3 requirements, and

4 d. to publish an annual report of hospital performance.

5 D. 1. The Advisory Council shall be composed of nine (9)  
6 members appointed by the Commissioner with the advice and consent of  
7 the Board. The membership of the Advisory Council shall be as  
8 follows:

9 a. two members shall be hospital administrators of  
10 licensed hospitals,

11 b. two members shall be licensed physicians or  
12 practitioners who have current privileges to provide  
13 services in hospitals,

14 c. two members shall be hospital employees, and

15 d. three members shall be citizens representing the  
16 public who:

17 (1) are not hospital employees,

18 (2) do not hold hospital staff appointments, and

19 (3) are not members of hospital governing boards.

20 2. a. Advisory Council members shall be appointed for three-  
21 year terms except the initial terms after November 1,  
22 1999, of one hospital administrator, one licensed  
23 physician or practitioner, one hospital employee, and  
24 one public member shall be one (1) year. The initial  
25 terms after the effective date of this act of one  
26 hospital administrator, one licensed physician or  
27 practitioner, one hospital employee, and one public  
28 member shall be two (2) years. The initial terms of  
29 all other members shall be three (3) years. After  
30 initial appointments to the Council, members shall be  
31 appointed to three-year terms.

1           b. Members of the Advisory Council may be removed by the  
2           Commissioner for cause.

3           E. The Advisory Council shall meet on a quarterly basis and  
4 shall annually elect from among its members a chairperson. Members  
5 of the Council shall serve without compensation but shall be  
6 reimbursed by the Department for travel expenses related to their  
7 service as authorized by the State Travel Reimbursement Act.

8           SECTION 3.           AMENDATORY           Section 12, Chapter 139, O.S.L.  
9 1992, as amended by Section 9 of Enrolled House Bill No. 1184 of the  
10 1st Session of the 47th Oklahoma Legislature, is amended to read as  
11 follows:

12           Section 1-1970. A. There is hereby created a Home Health  
13 Advisory Board which shall be composed of seven (7) members as  
14 follows:

15           1. One member who shall be a family practice physician or  
16 general practitioner of the medical professions licensed pursuant to  
17 the laws of this state and with a practice which includes home  
18 health service;

19           2. One member who shall be a registered nurse licensed pursuant  
20 to the laws of this state and whose practice includes home health  
21 services;

22           3. Two members who shall be administrators of home health  
23 agencies which shall, subsequent to the effective date of this act  
24 and its regulation, be licensed pursuant to this act; and

25           4. Three members who shall represent the general public and who  
26 shall, within twenty-four (24) months of their appointment, be  
27 consumers of home health services for themselves or for family  
28 members within the third degree of consanguinity.

29           B. The members of the Home Health Advisory Board shall be  
30 appointed by the State Commissioner of Health with the advice and  
31 consent of the State Board of Health from a list of names submitted  
32 to the Commissioner by any statewide organization comprised

1 exclusively of home care agencies. The lists submitted to the  
2 Commissioner shall contain a number of names equal to twice the  
3 number of positions to be appointed for each required membership  
4 category on the Home Health Advisory Board. Each member shall be  
5 appointed for a term of three (3) years except that the initial  
6 appointment of the physician and one administrator shall be for one  
7 (1) year and the initial appointment of one administrator and one  
8 consumer shall be for two (2) years. Vacancies shall be filled in  
9 like manner.

10 C. The State Department of Health shall provide staff to  
11 perform the designated duties of the Home Health Advisory Board.  
12 The Department shall provide meeting space for the Advisory Board.

13 D. The Advisory Board shall annually elect from among its  
14 membership a chair. The Home Health Advisory Board shall meet at  
15 least quarterly and at such other times as necessary. The members  
16 shall serve without compensation but shall be reimbursed for  
17 expenses related to their service by the Department pursuant to the  
18 provisions of the State Travel Reimbursement Act.

19 E. The Home Health Advisory Board shall have the power and duty  
20 to:

21 1. Serve as an advisory body to the Department for the  
22 development and improvement of services to patients of home health  
23 agencies;

24 2. Review and make recommendations to the State Board of Health  
25 regarding rules and standards promulgated by the Board;

26 3. Approve, in its advisory capacity, rules and standards  
27 promulgated by the Board; and

28 4. Evaluate and review the standards, practices and procedures  
29 of the Department regarding the administration and enforcement of  
30 the provisions of the Home Care Act.

31 SECTION 4. This act shall become effective July 1, 1999.

32 SECTION 5. It being immediately necessary for the preservation

1 of the public peace, health and safety, an emergency is hereby  
2 declared to exist, by reason whereof this act shall take effect and  
3 be in full force from and after its passage and approval.

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