

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 952

By: Haney and Hobson of the
Senate

and

Settle and Begley of the
House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Department of Corrections and health care; authorizing Department of Corrections to negotiate for lease of real property; authorizing Department to enter into lease upon certain conditions; authorizing Department to contract for medical care of inmates; specifying certain contract provisions; authorizing consideration of certain contract provisions; authorizing Department to operate certain on-site primary medical treatment programs; authorizing Department to contract with a health care administrative services firm; specifying certain duties to be included in contract; providing for selection of firm; requiring the Department to provide staffing for certain committees; specifying certain duties of health care administrative services firm; requiring certain reports; authorizing Department to maintain certain procedures; creating the Health Care Services Oversight Board; providing for membership; providing for duties and responsibilities of Board; providing for travel expenses; requiring certain contracts with private prison operators to contain certain provisions; directing closure of certain medical facility; providing certain benefits to affected employees; making an appropriation to the Department of Corrections; stating purpose; amending 43A O.S. 1991, Section 3-701, as amended by Section 6, Chapter 174, O.S.L 1997 (43A O.S. Supp. 1999, Section 3-701), which relates to hospital services for inmates of correctional institutions; limiting length of time certain requirements shall be imposed on certain agencies; amending Section 3, Chapter 330, O.S.L. 1993, as last amended by Section 1, Chapter 174, O.S.L. 1997 and Section 5, Chapter 263, O.S.L. 1995, as amended by Section 7, Chapter 321, O.S.L. 1996 (63 O.S. Supp. 1999, Sections 3203 and 3226), which relate to the purposes of the University Hospitals Authority Act and the powers and duties of the University Hospitals Trust and the University Hospitals Authority, limiting time period for which University Hospitals Authority is required to provide certain medical care; providing exception to requirements of certain lease; providing for

noncodification; providing for codification; 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 621 of Title 57, unless there is created a duplication in numbering, reads as follows:

The Department of Corrections and the University Hospitals Authority are hereby authorized to negotiate for a lease renewable annually for not less than ten (10) years, subject to annual appropriations, for the use and occupation of so much of the O'Donoghue Rehabilitation Institute as is necessary for the provision of health care services pursuant to a contract entered into pursuant to Section 2 of this act. The Department is authorized to enter into such lease subject to the ability of the Department to complete the contractual arrangements set forth in Section 2 of this act.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 622 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. The Department of Corrections is authorized to negotiate and enter into contracts for the provision of specialty medical care at the O'Donoghue Rehabilitation Institute for all inmates for whom the Department of Corrections has statutory responsibility for medical care. Such contracts shall not be subject to the provisions of the Central Purchasing Act and shall incorporate the following provisions:

1. The contracts shall apply to all inmates for whom the Department of Corrections has statutory responsibility for medical care, whether such inmates are housed in a facility operated by the Department, in a county jail or in a facility operated by a

contractor, unless the Department has a contractual agreement for a contractor to furnish medical care for inmates housed in a facility operated by such private prison operator.

2. The contract will provide for specific health care services to be provided at the O'Donoghue Rehabilitation Institute, with the operational responsibility of the facility, other than security and transportation of inmates, to be assumed by the University Hospitals Authority, pursuant to the Joint Operating Agreement entered into between the Authority and HCA Health Services of Oklahoma, Inc. on February 5, 1998. The Department of Corrections, contractors or county sheriff shall be responsible for all transportation and security of inmates receiving medical treatment under the contract.

3. The contract will provide that all persons employed in the medical-surgical unit of the Griffin Memorial Hospital in Norman, Oklahoma, on the contract commencement date, be offered employment at the O'Donoghue Rehabilitation Institute subject to the same terms, conditions and benefits provided to former employees of the University Hospitals Authority under the Joint Operating Agreement.

4. The contract will provide that the provision of medical care shall begin not later than July 1, 2002.

5. The Department of Corrections shall contract with a physician's medical group for the provision of specialty physician services. Payment for such services may be on a capitated or other basis as provided in the contract. This paragraph shall not prohibit the Department from entering into other contracts for the provision of specialty physician services beyond the scope of the physician's medical group.

6. The contract will require the Authority, under the Joint Operating Agreement to provide for the operation of a medical facility at the O'Donoghue Rehabilitation Institute.

7. The contracts shall provide for a system of resolving disputes raised by providers performing services under the contracts.

B. The Department of Corrections and the University Hospitals Authority shall consider requiring the following provisions for the payment of medical care when negotiating the contract, but may make other payment provisions if it is determined to be in the best interests of the State to do so:

1. Payment of a flat facility fee for each clinic and outpatient visit;

2. Payment for diagnostic services and ambulatory surgery to be made on a fee-for-service basis at preestablished rates;

3. Payment for each admission to be made either on a case rate basis varying by diagnosis-related group or on a per diem basis; and

4. Infirmary or step-down services will be reimbursed either within the case rate with provisions for additional outlier payments or on a per diem basis.

C. The Department shall consider requiring that all non-emergent specialty physician services and inpatient care will be provided by the vendor and the physicians medical group with the following exceptions:

1. Care needed on an urgent routine basis when the vendor or the physicians medical group cannot provide a timely response; and

2. Care provided by community providers under contract with the Department of Corrections to provide care for prisoners in designated facilities.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 623 of Title 57, unless there is created a duplication in numbering, reads as follows:

The Department of Corrections is authorized to operate on-site primary medical treatment programs using employed or contracted providers at facilities operated by the Department.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 624 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. The Department of Corrections is authorized to enter into a contract with a health care administrative services firm no later than October 1, 2000, for the provision of expertise and technical assistance in the following areas:

1. Development of the contracts required by Section 2 of this act;

2. Review and refinement of system-wide medical and utilization management programs, including review of existing policies, procedures and protocols for use in providing medical care to Oklahoma inmates for whom the Department of Corrections has statutory responsibility to provide medical care;

3. Review of the process for establishing payment rates for medical services other than direct care;

4. Review of existing formulary and managed pharmaceutical programs for correctional facilities in this state;

5. Review of the process for contracting for competitively priced reference laboratory services, medical supplies and pharmaceuticals; and

6. Development of the use of telemedicine as a means of assisting the Department of Corrections in fulfilling its statutory responsibility for the provision of medical care.

B. The health care administrative services firm shall be selected through a Request for Proposal developed by the Department of Corrections in consultation with the Correctional Health Care Services Oversight Board created in Section 6 of this act. No contract with such firm shall become effective until such contract has been recommended by the Correctional Health Care Services Oversight Board and approved by the State Board of Corrections.

C. The Department of Corrections shall provide staffing for any committees established pursuant to Section 5 of this act and the health care administrative services firm shall assist such committees in the collection, analysis and reporting of information and making recommendations for changes.

D. The Department of Corrections shall report at least quarterly to the Correctional Health Care Services Oversight Board on the provision of health care services to inmates. Such reports shall include all recommendations made by the health care services administrative firm and shall provide information to the Oversight Board on the issues encountered and results achieved by the procedures authorized in Section 5 of this act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 625 of Title 57, unless there is created a duplication in numbering, reads as follows:

The Department of Corrections will maintain within its Medical Services Division procedures for quality management, utilization management and a grievance appeals process for inmates. The Department will seek input from the health care administrative services firm as to the advisability of establishing committees to implement the procedures authorized in this section.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 626 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created until July 1, 2003, in accordance with the provisions of the Oklahoma Sunset Law, the Correctional Health Care Services Oversight Board. The members of the Board shall be:

1. The Chief Medical Officer of the Department of Corrections;
2. The Director of the University Hospitals Authority;
3. The Dean of the University of Oklahoma Medical School;
4. A person appointed by the Governor;

5. A person who is not a state officer or a state employee and who is a recognized expert in the provision of health care services appointed by the President Pro Tempore of the Senate;

6. A person who is not a state officer or a state employee and who is a recognized expert in the provision of health care services appointed by the Speaker of the House of Representatives;

7. A person who is not a state officer or a state employee and who is a recognized expert in the provision of health care services appointed by the Governor;

8. A legislator appointed by the President Pro Tempore of the Senate; and

9. A legislator appointed by the Speaker of the House of Representatives.

B. Each member of the Correctional Health Care Oversight Board initially appointed shall make the member's appointment known to the Director of the Department of Corrections. Any vacancies in the appointive membership of the Board shall be filled in the same manner as the original appointment. The Chief Medical Officer of the Department of Corrections shall be the chair of the Board and the members shall elect a vice-chair from its members.

C. A majority of the members of the Board shall constitute a quorum and a majority present may act for the Board.

D. The Department of Corrections shall provide staff assistance to the Board in the performance of its duties.

E. The Board shall have the duty and responsibility of monitoring the provision of health care services to Oklahoma inmates sentenced to the custody of the Department of Corrections in correctional facilities in this state and providing advice and recommendations to the Legislature and the Department of Corrections.

F. The Board shall review the Department of Corrections Medical Service Division's quality management process and any proposed

amendments to the process. The Board shall monitor implementation of the process and make recommendations to the Director of the Department of Corrections regarding the process and its implementation.

G. The Board shall have the authority to review the appeals process and any issues arising from the appeals process which might result in litigation. Any such review shall be conducted in executive session.

H. Members of the Board shall receive no salary; however all members of the Board shall be reimbursed for all actual and necessary travel expenses as follows:

1. Board members employed by the state who are not members of the Legislature shall be reimbursed by their respective employing agency pursuant to the State Travel Reimbursement Act;

2. Board members who are also members of the Legislature shall be reimbursed pursuant to the provisions of Section 456 of Title 74 of the Oklahoma Statutes; and

3. Any other Board member shall receive reimbursement from the member's appointing authority.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 561.3 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. Every contract entered into on and after the effective date of this act, between the Department of Corrections and a private prison operator which provides for the housing of inmates under the custody or supervision of the Department of Corrections, shall require that the private prison operator furnish medical care for such inmates as part of the contract price. Such care shall meet standards prepared and established by the Board of Corrections for inmate medical care.

B. A private prison operator which has contracted with the Department of Corrections to house inmates under the custody or

control of the Department and which is required by such contract to furnish medical care for such inmates may contract with the Department of Corrections for medical care to be provided pursuant to the contract provided for in Section 2 of this act.

SECTION 8. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The Department of Mental Health and Substance Abuse Services is directed to cease all operations of the medical-surgical unit at the Griffin Memorial Hospital on commencement of the O'Donoghue Rehabilitation Institute services contract as provided by this act. All functions of such unit shall be assumed by the contract provided for in Section 2 of this act. All affected employees shall be entitled to the benefits provided by paragraph 3 of subsection A of Section 2 of this act in addition to all other benefits and privileges provided by law.

SECTION 9. There is hereby appropriated to the Department of Corrections from any monies not otherwise appropriated from the General Revenue Fund of the State Treasury for the fiscal year ending June 30, 2001, the sum of Seven Hundred Thousand Dollars (\$700,000.00) or so much thereof as may be necessary to perform architectural and engineering work at the O'Donoghue Rehabilitation Institute and to enter into a contract with a health care administrative services firm as provided in Section 4 of this act.

SECTION 10. AMENDATORY 43A O.S. 1991, Section 3-701, as amended by Section 6, Chapter 174, O.S.L. 1997 (43A O.S. Supp. 1999, Section 3-701), is amended to read as follows:

Section 3-701. ~~It~~ Until commencement of the O'Donoghue Rehabilitation Institute services contract but not later than July 1, 2002, it shall be the responsibility of the Department of Mental Health and Substance Abuse Services, within facilities and professional capabilities, to provide at Griffin Memorial Hospital, Norman, Oklahoma, such medical and surgical inpatient and outpatient

care as may be required by inmates from the several correctional institutions that are properly referred to the hospital by the Department of Corrections. The Department of Mental Health and Substance Abuse Services may refer to the University Hospitals, and the latter shall accept those correctional inmate patients who are beyond the facilities' and professional capability of Griffin Memorial Hospital. The Department of Corrections shall be responsible for transporting to, from, and between hospitals and for providing such physical security of correctional inmate patients as may be required beyond that security normal to hospital operation. The Department of Corrections shall immediately remove from the hospital those inmate patients as they are discharged by the hospital. The hospital services provided by Griffin Memorial Hospital and the University Hospitals shall be without cost to the Department of Corrections.

SECTION 11. AMENDATORY Section 3, Chapter 330, O.S.L. 1993, as last amended by Section 1, Chapter 174, O.S.L. 1997 (63 O.S. Supp. 1999, Section 3203), is amended to read as follows:

Section 3203. A. The purposes of the University Hospitals Authority Act are to provide for an effective and efficient administration, to ensure a dependable source of funding, and to effectuate the mission and purposes of the University Hospitals Authority. The mission and purposes of the University Hospitals are to serve as general hospitals, to serve as teaching and training facilities for students enrolled at the University of Oklahoma, to serve as a site for conducting medical and biomedical research by faculty members of the University of Oklahoma Health Sciences Center and to provide care for the medically indigent. The University Hospitals shall maintain a close affiliation with the University of Oklahoma Health Sciences Center and shall coordinate their operations and activities in a cooperative manner. In addition, the

University Hospitals Authority shall provide indigent and nonindigent patient care, as more fully described herein.

B. The Legislature finds that the needs of the citizens of this state and the needs of the University of Oklahoma Health Sciences Center will be best served if the University Hospitals are operated by a separate Authority charged with the mission of operating or leasing the operations of the teaching hospitals for the benefit of the colleges of the University of Oklahoma Health Sciences Center and providing care for the medically indigent.

C. The University Hospitals Authority, by receiving the assets and operating obligations, shall ensure that the costs of delivering medically indigent care continue to be subsidized in excess of the state reimbursement for the medically indigent, consistent with the teaching hospitals' past policy and performance and that of the University of Oklahoma Health Sciences Center. The Authority shall make or cause to be made every reasonable effort to continue the hospitals' historic commitment to the provision of uncompensated care and that the allocation and investment of resources shall be made with a view to maximizing the hospitals' long-term ability to provide uncompensated care, except as may be modified by changes in federal or state law. The University Hospitals Authority shall ensure that indigent care provided by the Oklahoma Medical Center during a fiscal year shall be equal to or exceed one hundred twenty percent (120%) of the annual appropriation to the University Hospitals Authority for indigent care. The level of indigent care provided shall be based on Medicare costs as determined by the most recent report filed by any operating entity of the University Hospitals with the federal Health Care Finance Administration.

D. As used in this section, "indigent care" means charity care, Medicaid contractual allowances, all debt arising from accounts for which there is no third-party coverage including services provided to the Department of Corrections until commencement of the

O'Donoghue Rehabilitation Institute services contract pursuant to Section 3-701 of Title 43A of the Oklahoma Statutes and Department of Mental Health and Substance Abuse Services as otherwise required by law. For purposes of this subsection, third-party coverage shall not include Medicaid coverage.

E. The Board of Regents of the University of Oklahoma shall retain full power to govern the personnel, curriculum and facilities of the University of Oklahoma.

SECTION 12. AMENDATORY Section 5, Chapter 263, O.S.L. 1995, as amended by Section 7, Chapter 321, O.S.L. 1996 (63 O.S. Supp. 1999, Section 3226), is amended to read as follows:

Section 3226. A. Contingent upon the creation of the University Hospitals Trust as provided in Section ~~3 of this act~~ 3224 of this title, the University Hospitals Authority is hereby authorized to lease, for a term of not more than fifty (50) years, renewable at the option of the Authority, all real property known as the University Hospitals and any other sites under the control of the Authority to the University Hospitals Trust. Any lease agreement made pursuant to this section shall be contingent upon:

1. Prior review by the Attorney General of any contractual agreement between the University Hospitals Trust and any entity authorized to transact business in the State of Oklahoma regarding the lease and operations of the University Hospitals. The Attorney General shall disapprove the agreement if it is determined that provisions of the agreement are not consistent with state law; and

2. The execution of an operating and lease agreement between the University Hospitals Trust and any entity authorized to transact business in the State of Oklahoma.

B. Concurrent with the execution of a lease of real property from the University Hospitals Authority to the University Hospitals Trust as provided in subsection A of this section, the Authority is authorized to transfer title to and possession of all tangible and

intangible personal property under its control to the Trust. In any contractual agreement regarding the lease and operations of the University Hospitals between the University Hospitals Trust and any entity authorized to transact business in the State of Oklahoma, the Trust is authorized to sell or otherwise convey to such entity all tangible and intangible personal property the Trust may receive from the University Hospitals Authority. Any contract or other agreement which purports to exercise the powers authorized by this subsection is subject to review by the Contingency Review Board, as specified in Section 3225 of this title.

C. If a contracting entity fails to take possession of the leased premises or abandons or surrenders possession of the leased premises, other than to a state agency, at any time during the term of the lease between the University Hospitals Trust and the contracting entity, the interest in the real property leased to the University Hospitals Trust by the University Hospitals Authority shall revert to and be the sole and exclusive property of the University Hospitals Authority.

D. Contingent upon the execution of an agreement between the University Hospitals Trust and any entity authorized to transact business in the State of Oklahoma, as specified in subsection A of this section, the University Hospitals Authority is authorized to enter into an agreement for such entity to provide indigent care services and perform other related duties imposed upon the University Hospitals Authority by law. Such an agreement between the University Hospitals Authority and such entity is exempt from the requirements of the Oklahoma Central Purchasing Act and any rules adopted by the University Hospitals Authority pursuant to the Administrative Procedures Act.

SECTION 13. 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.

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