

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE  
4 FOR  
5 HOUSE BILL NO. 1318

By: Stanley

6  
7 COMMITTEE SUBSTITUTE

8 An Act relating to insurance and health care;  
9 amending Section 18, Chapter 342, O.S.L. 1994, 36  
10 O.S. 1991, Section 6054, as last amended by Section  
11 1, Chapter 76, O.S.L. 1996, 6055, as last amended by  
12 Section 2, Chapter 76, O.S.L. 1996, 6056, as amended  
13 by Section 3, Chapter 76, O.S.L. 1996, and 6057, as  
14 amended by Section 4, Chapter 76, O.S.L. 1996 (36  
15 O.S. Supp. 1998, Sections 6053, 6054, 6055, 6056 and  
16 6057), which relate to the Health Care Freedom of  
17 Choice Act; modifying short title; adding and  
18 modifying definitions; providing for construction of  
19 section; adding ambulatory surgical centers to act;  
20 removing exemptions; authorizing certain contracts;  
21 providing for terms and conditions; restricting  
22 certain terms and conditions; requiring certain  
23 participation by certain providers; authorizing the  
24 Insurance Commissioner to issue certain orders  
25 providing enforcement authority; providing for  
26 certain assistance by the Attorney General; providing  
27 for award of attorney fees; providing for deposits;  
28 providing and authorizing administrative penalties;  
29 specifying amounts; providing for enforcement;  
30 providing for deposits; providing for judicial  
31 review; providing for promulgation of rules; amending  
32 36 O.S. 1991, Section 3624, as amended by Section 1,  
Chapter 370, O.S.L. 1992 (36 O.S. Supp. 1998, Section  
3624), which relates to assignment of certain  
insurance policies; updating certain cites; providing  
for codification; and providing an effective date.

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

SECTION 1. AMENDATORY Section 18, Chapter 342, O.S.L.  
1994 (36 O.S. Supp. 1998, Section 6053), is amended to read as  
follows:

Section 6053. Sections 6053 through 6057 of ~~Title 36 of the~~  
~~Oklahoma Statutes~~ this title and Sections 6 through 9 of this act

1 shall be known and may be cited as the "Health Care Freedom of  
2 Choice Act".

3 SECTION 2. AMENDATORY 36 O.S. 1991, Section 6054, as  
4 last amended by Section 1, Chapter 76, O.S.L. 1996 (36 O.S. Supp.  
5 1998, Section 6054), is amended to read as follows:

6 Section 6054. As used in the Health Care Freedom of Choice Act:

7 1. "Accident and health insurance policy" or "policy" means any  
8 policy, certificate, contract, agreement or other instrument that  
9 provides accident and health insurance, as defined in Section 703 of  
10 this title, to any person in this state;

11 2. "Ambulatory surgical center" means any ambulatory surgery  
12 facility licensed by the State Department of Health as defined in  
13 Section 2657 of Title 63 of the Oklahoma Statutes;

14 3. "Hospital" means any facility as defined in Section 1-701 of  
15 Title 63 of the Oklahoma Statutes;

16 ~~3.~~ 4. "Insured" means any person entitled to reimbursement for  
17 expenses of health care services and procedures under an accident  
18 and health insurance policy issued by an insurer;

19 ~~4.~~ 5. "Insurer" means any entity that provides an accident and  
20 health insurance policy in this state, including but not limited to  
21 a licensed insurance company, a not-for-profit hospital service  
22 ~~and/or~~ and medical indemnity corporation, a fraternal benefit  
23 society, a multiple employer welfare arrangement, or any other  
24 entity subject to regulation by the Insurance Commissioner; ~~and~~

25 ~~5.~~ 6. "Practitioner" means any person holding a valid license  
26 to practice medicine and surgery, osteopathic medicine,  
27 chiropractic, podiatric medicine, optometry or dentistry, pursuant  
28 to the state licensing provisions of Title 59 of the Oklahoma  
29 Statutes; and

30 7. "Preferred provider organization (PPO)" means a network of  
31 practitioners, hospitals, and ambulatory surgical centers, which  
32

1 have entered into a contract with an insurer to provide health care  
2 services under the terms and conditions established in the contract.

3 SECTION 3. AMENDATORY 36 O.S. 1991, Section 6055, as  
4 last amended by Section 2, Chapter 76, O.S.L. 1996 (36 O.S. Supp.  
5 1998, Section 6055), is amended to read as follows:

6 Section 6055. A. Under any accident and health insurance  
7 policy, hereafter renewed or issued for delivery from out of  
8 Oklahoma or in Oklahoma by any insurer and covering an Oklahoma  
9 risk, the services and procedures may be performed by any  
10 practitioner selected by the insured, or the insured's parent or  
11 guardian if the insured is a minor and, if the services and  
12 procedures fall within the licensed scope of practice of the  
13 practitioner providing the ~~service~~ same.

14 B. An accident and health insurance policy may:

15 1. Exclude or limit coverage for a particular illness, disease,  
16 injury or condition; but, except for such exclusions or limits,  
17 shall not exclude or limit particular services or procedures that  
18 can be provided for the diagnosis and treatment of a covered  
19 illness, disease, injury or condition, if such exclusion or  
20 limitation has the effect of discriminating against a particular  
21 class of practitioner. However, such services and procedures, in  
22 order to be a covered medical expense, must:

- 23 a. be medically necessary,  
24 b. be of proven efficacy, and  
25 c. fall within the licensed scope of practice of the  
26 practitioner providing same; and

27 2. Provide for the application of deductibles and copayment  
28 provisions, when equally applied to all covered charges for services  
29 and procedures that can be provided by any practitioner for the  
30 diagnosis and treatment of a covered illness, disease, injury or  
31 condition. This provision shall not be construed to prohibit  
32 reasonable differences in deductibles and copayment provisions

1 between practitioners who are participating network practitioners  
2 preferred provider organization providers and ~~nonparticipating~~  
3 ~~network practitioners~~ who are not participating in the preferred  
4 provider organization.

5 3. At the option of the insurer, establish the plan of benefits  
6 and covered services and procedures which are to be covered under  
7 the policy.

8 C. Benefits available under an accident and health insurance  
9 policy, at the option of the insured, shall be assignable to a  
10 practitioner ~~or~~, hospital or ambulatory surgical center who has  
11 provided services and procedures which are covered under the policy.  
12 A practitioner ~~or~~, hospital or ambulatory surgical center shall be  
13 compensated directly by an insurer for services and procedures which  
14 have been provided when the following conditions are met:

15 1. Benefits available under a policy have been assigned in  
16 writing by an insured to the practitioner ~~or~~, hospital or ambulatory  
17 surgical center;

18 2. A copy of the assignment has been provided by the  
19 practitioner ~~or~~, hospital or ambulatory surgical center to the  
20 insurer;

21 3. A claim has been submitted by the practitioner ~~or~~, hospital  
22 or ambulatory surgical center to the insurer on a uniform health  
23 insurance claim form ~~prescribed~~ adopted by the Insurance  
24 Commissioner pursuant to Section 6581 of this title; and

25 4. A copy of the claim has been provided by the practitioner  
26 ~~or~~, hospital or ambulatory surgical center to the insured.

27 D. ~~The provisions of subsection C of this section shall not~~  
28 ~~apply to:~~

29 ~~1. Any preferred provider organization (PPO) contract, as~~  
30 ~~defined by generally accepted industry standards; or~~

31 ~~2. Any statewide provider network which:~~  
32

- 1           a. ~~provides that a practitioner or hospital who joins the~~  
2           ~~provider network shall be compensated directly by the~~  
3           ~~insurer,~~
- 4           b. ~~does not have any terms or conditions which have the~~  
5           ~~effect of discriminating against a particular class of~~  
6           ~~practitioner, and~~
- 7           c. ~~allows any hospital or practitioner, except a~~  
8           ~~practitioner who has a prior felony conviction, to~~  
9           ~~become a network provider if said hospital or~~  
10           ~~practitioner is willing to comply with the terms and~~  
11           ~~conditions of a standard network provider contract.~~

12       ~~E.~~ A practitioner shall be equally compensated for covered  
13 services and procedures provided to an insured on the basis of  
14 charges prevailing in the same geographical area or in similar sized  
15 communities for similar services and procedures provided to  
16 similarly ill or injured persons regardless of the branch of the  
17 healing arts to which the practitioner may belong, if:

18       1. The practitioner does not authorize or permit false and  
19 fraudulent advertising regarding the services and procedures  
20 provided by the practitioner; and

21       2. The practitioner does not aid or abet the insured to violate  
22 the terms of the policy.

23       ~~F.~~ E. Nothing in the Health Care Freedom of Choice Act shall  
24 prohibit a practitioner from contracting with an insurer ~~for~~ from  
25 establishing a preferred provider organization and a standard  
26 participating provider contract therefor, specifying the terms and  
27 conditions, including provider qualifications, and alternative  
28 levels or methods of payment, that must be met by a practitioner  
29 selected by the insurer as a participating preferred provider  
30 organization provider.

31       F. A preferred provider organization, in executing a contract,  
32 shall not, by the terms and conditions of the contract, discriminate

1 within its network of practitioners with respect to participation  
2 and reimbursement as it relates to any provider who is acting within  
3 the scope of the provider's license under the law solely on the  
4 basis of such license.

5 SECTION 4. AMENDATORY 36 O.S. 1991, Section 6056, as  
6 amended by Section 3, Chapter 76, O.S.L. 1996 (36 O.S. Supp. 1998,  
7 Section 6056), is amended to read as follows:

8 Section 6056. Services and procedures covered under an accident  
9 and health insurance policy may be performed at any hospital or  
10 ambulatory surgical center where a practitioner is authorized to  
11 practice, doctor's office or clinic, at the choice of the insured,  
12 or the insured's parent or guardian if the insured is a minor, and  
13 the practitioner who is providing the services and procedures.

14 SECTION 5. AMENDATORY 36 O.S. 1991, Section 6057, as  
15 amended by Section 4, Chapter 76, O.S.L. 1996 (36 O.S. Supp. 1998,  
16 Section 6057), is amended to read as follows:

17 Section 6057. A. Any provision, exclusion or limitation in an  
18 accident and health insurance policy which:

19 1. Denies an insured, or the insured's parent or guardian if  
20 the insured is a minor, the free choice of any practitioner or the  
21 use of any hospital or ambulatory surgical center where the  
22 practitioner is authorized to practice, doctor's office or clinic;  
23 or

24 2. Otherwise conflicts with any provision of the Health Care  
25 Freedom of Choice Act; ~~and~~  
26 shall, to the extent of the denial or conflict, be void, but such  
27 avoidance shall not affect the validity of the other provisions of  
28 the policy.

29 B. Any policy form presently approved for use containing any  
30 provision, exclusion or limitation determined by the Insurance  
31 Commissioner to be in conflict with any provision of the Health Care  
32 Freedom of Choice Act shall be brought into compliance with the act

1 by the filing of a rider, an endorsement, or a new or revised policy  
2 form approved by the Commissioner.

3 SECTION 6. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 6057.1 of Title 36, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. The Insurance Commissioner, upon finding an insurer in  
7 violation of any provision of the Health Care Freedom of Choice Act,  
8 may issue a cease and desist order to said insurer directing it to  
9 stop such unlawful practices. If the insurer refuses or fails to  
10 comply with said order, the Commissioner shall have the authority to  
11 revoke or suspend the insurer's certificate of authority. The  
12 Commissioner shall use the above authority to the extent deemed  
13 necessary to obtain the insurer's compliance with the order. The  
14 Attorney General shall offer his assistance if requested by the  
15 Commissioner to enforce the Commissioner's orders.

16 B. Reasonable attorney fees shall be awarded to the  
17 Commissioner if judicial action is necessary for the enforcement of  
18 the orders. Such fees shall be based upon those prevailing in the  
19 community. Fees collected by the Commissioner without the  
20 assistance of the Attorney General shall be credited to the  
21 Insurance Commissioner's Revolving Fund. Fees collected by the  
22 Attorney General shall be credited to the Attorney General's  
23 Revolving Fund.

24 SECTION 7. NEW LAW A new section of law to be codified  
25 in the Oklahoma Statutes as Section 6057.2 of Title 36, unless there  
26 is created a duplication in numbering, reads as follows:

27 For any violation of the Health Care Freedom of Choice Act, the  
28 Insurance Commissioner may, after notice and opportunity hearing,  
29 subject an insurer to an administrative penalty of not less than One  
30 Hundred Dollars (\$100.00) nor more than Five Thousand Dollars  
31 (\$5,000.00) for each occurrence. Such administrative penalty may be  
32 enforced in the same manner in which civil judgments may be

1 enforced. The penalties collected shall be placed in the Insurance  
2 Commissioner's Revolving Fund.

3 SECTION 8. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 6057.3 of Title 36, unless there  
5 is created a duplication in numbering, reads as follows:

6 Any insurer affected by an order of the Insurance Commissioner  
7 issued pursuant to the Health Care Freedom of Choice Act may seek  
8 judicial review of such order pursuant to Article II of the  
9 Administrative Procedures Act.

10 SECTION 9. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 6057.4 of Title 36, unless there  
12 is created a duplication in numbering, reads as follows:

13 The Insurance Commissioner shall promulgate rules for the  
14 implementation and administration of the Health Care Freedom of  
15 Choice Act.

16 SECTION 10. AMENDATORY 36 O.S. 1991, Section 3624, as  
17 amended by Section 1, Chapter 370, O.S.L. 1992 (36 O.S. Supp. 1998,  
18 Section 3624), is amended to read as follows:

19 Section 3624. Except as provided in subsection ~~B~~ C of Section  
20 6055 of this title, a policy may be assignable or not assignable, as  
21 provided by its terms. Subject to its terms relating to  
22 assignability, any life or accident and health policy, whether  
23 heretofore or hereafter issued, under the terms of which the  
24 beneficiary may be changed upon the sole request of the insured, may  
25 be assigned either by pledge or transfer of title, by an assignment  
26 executed by the insured alone and delivered to the insurer, whether  
27 or not the pledgee or assignee is the insurer. Any such assignment  
28 shall entitle the insurer to deal with the assignee as the owner or  
29 pledgee of the policy in accordance with the terms of the  
30 assignment, until the insurer has received at its home office  
31 written notice of termination of the assignment or pledge, or  
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1 written notice by or on behalf of some other person claiming some  
2 interest in the policy in conflict with the assignment.

3 SECTION 11. This act shall become effective November 1, 1999.

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