

**EHB 1184**

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**THE STATE SENATE**  
**Tuesday, March 30, 1999**

**ENGROSSED**  
**House Bill No. 1184**  
**As Amended**

ENGROSSED HOUSE BILL NO. 1184 - By: ADKINS of the House and WEEDN of the Senate.

An Act relating to public health and safety; amending 63 O.S. 1991, Sections 1-701, as amended by Section 5, Chapter 231, O.S.L. 1995, 1-702, as amended by Section 49, Chapter 354, O.S.L. 1996, 1-704, as amended by Section 13, Chapter 269, O.S.L. 1993, 1-705, 1-706, 1-707, 1-707a, as amended by Section 1, Chapter 134, O.S.L. 1995 and 1-707b, as last amended by Section 6, Chapter 358, O.S.L. 1995 (63 O.S. Supp. 1998, Sections 1-701, 1-702, 1-704, 1-707a and 1-707b), which relate to hospitals; modifying, deleting and adding definitions; clarifying language; deleting references to related institutions and to certain treatment facilities; adding to content of rules and standards; creating the Oklahoma Hospital Advisory Council; providing for appointment, removal and duties; specifying terms; providing for compensation; amending Section 12, Chapter 139, O.S.L. 1992 (63 O.S. Supp. 1998, Section 1-1970), which relates to the Home Health Advisory Board; modifying appointment procedures; requiring reimbursement; repealing Sections 1, 2, 3, 4 and 5, Chapter 226, O.S.L. 1994 (63 O.S. Supp. 1998, Sections 1-706.1, 1-706.2, 1-706.3, 1-706.4 and 1-706.5), which relate to the Oklahoma Rural Primary Care Hospital and Emergency Medical Services Act; repealing 63 O.S. 1991, Section 2550, which relates to the licensing of certain laboratories; repealing 63 O.S. 1991, Sections 1-710, 1-712, 1-714, 1-715, 1-716, 1-717, 1-718, 1-720 and 1-721, which relate to definitions, the State Hospital Planning Advisory Council, certain grants, certain state plans for construction of public and other nonprofit hospitals, contents of state plans, reports, and approval requirements, right to deny to certain groups the authority to construct certain hospitals, and certain transfer of duties; and providing an effective date.

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

2 SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-701, as  
3 amended by Section 5, Chapter 231, O.S.L. 1995 (63 O.S. Supp. 1998,  
4 Section 1-701), is amended to read as follows:

5 Section 1-701. For the purposes of this article:

6 1. "Hospital" means any institution, place, building or agency,  
7 public or private, whether organized for profit or not, devoted  
8 primarily to the maintenance and operation of facilities for the  
9 diagnosis, treatment or care of patients admitted for overnight stay  
10 or longer in order to obtain medical care, surgical care,  
11 obstetrical care, or nursing care for illness, disease, injury,  
12 infirmity, or deformity. Except as otherwise provided by paragraph  
13 5 of this subsection, places where pregnant females are admitted and  
14 receive care incident to pregnancy, abortion or delivery shall be  
15 considered to be a "hospital" within the meaning of this article,  
16 regardless of the number of patients received or the duration of  
17 their stay. The term "hospital" includes general and medical  
18 surgical hospitals, specialized hospitals, ~~tuberculosis sanitoria,~~  
19 ~~maternity homes, lying-in homes, and homes for unwed mothers in~~  
20 ~~which care is given during delivery.~~ critical access and emergency  
21 hospitals, and birthing centers;

1        2. "General medical surgical hospital" means a hospital  
2 maintained for the purpose of providing hospital care in a broad  
3 category of illness and injury-;

4        3. "Specialized hospital" means a hospital maintained for the  
5 purpose of providing hospital care in a certain category, or  
6 categories, of illness and injury-;

7        4. ~~"Related institution" means an institution, or an industrial~~  
8 ~~or other type of infirmary, providing limited medical or surgical~~  
9 ~~care to ill or injured persons on a temporary basis, or a birthing~~  
10 ~~center.~~ Critical access hospital" means a hospital determined by the  
11 State Department of Health to be a necessary provider of health care  
12 services to residents of a rural community;

13        5. "Emergency hospital" means a hospital that provides  
14 emergency treatment and stabilization services on a 24-hour basis  
15 that has the ability to admit and treat patients for short periods  
16 of time;

17        6. "Birthing center" means any facility, place or institution,  
18 which is maintained or established primarily for the purpose of  
19 providing services of a certified midwife or licensed medical doctor  
20 to assist or attend a woman in delivery and birth, and where a woman  
21 is scheduled in advance to give birth following a normal,  
22 uncomplicated, low-risk pregnancy. Provided, however, licensure for  
23 a birthing center shall not be compulsory-; and

1        ~~6.~~ 7. "Day treatment program" means nonresidential, partial  
2 hospitalization programs, day treatment programs, and day hospital  
3 programs as defined by subsection A of Section ~~1 of this act~~ 175.20  
4 of Title 10 of the Oklahoma Statutes.

5        SECTION 2.        AMENDATORY        63 O.S. 1991, Section 1-702, as  
6 amended by Section 49, Chapter 354, O.S.L. 1996 (63 O.S. Supp. 1998,  
7 Section 1-702), is amended to read as follows:

8        Section 1-702. A. It shall be unlawful for any person to  
9 establish, operate or maintain in the State of Oklahoma ~~any a~~  
10 hospital ~~or related institution~~ without first obtaining a license  
11 therefor in the manner hereinafter provided. Hospitals operated by  
12 the federal government, state mental hospitals, and community-based  
13 structured crisis centers, as defined in Section 3-317 of Title 43A  
14 of the Oklahoma Statutes, shall be exempt from the provisions of  
15 this article.

16        B. A hospital may be licensed as a general medical surgical  
17 hospital with one or more specialty services or combination of  
18 specialty services in a single license.

19        C. Nothing in this article shall authorize any person to  
20 engage, in any manner, in the practice of the healing arts.

21        SECTION 3.        AMENDATORY        63 O.S. 1991, Section 1-704, as  
22 amended by Section 13, Chapter 269, O.S.L. 1993 (63 O.S. Supp. 1998,  
23 Section 1-704), is amended to read as follows:

1 Section 1-704. A. 1. The application by any person for a  
2 license to operate a hospital ~~or related institution~~ within the  
3 meaning of this article shall be accompanied by a fee to be  
4 determined by the number of beds available for patients, to be  
5 established by the State Board of Health, but not to exceed Ten  
6 Dollars (\$10.00) for each bed included in the maximum bed capacity  
7 at such facility.

8 2. For the purpose of determining the fee, the total number of  
9 beds shall include cribs and bassinets.

10 B. No such fee shall be refunded unless licensure is refused.  
11 All licenses shall be for a period of twelve (12) months from the  
12 date of issue. Provided that licenses may be issued for a period of  
13 more than twelve (12) months, but not more than twenty-four (24)  
14 months, for the license period immediately following the enactment  
15 of this provision in order to permit an equitable distribution of  
16 license expiration dates to all months of the year.

17 C. Fees for such extended licensure period shall be prorated  
18 according to the total months to be licensed, with such amounts to  
19 be calculated to the nearest dollar.

20 D. All licenses:

21 1. ~~shall~~ Shall be on a form prescribed by the State  
22 Commissioner of Health ~~and~~ and shall not be transferable or  
23 assignable ~~and~~ ;

1        ~~2. shall~~ Shall be issued only for the premises named in the  
2 application~~;~~;

3        ~~3. shall~~ Shall be posted in a conspicuous place on the licensed  
4 premises~~;~~; and

5        ~~4. may~~ May be renewed for twelve-month periods upon  
6 application, investigation and payment of license fee, as in the  
7 case of procurement of an original license.

8        SECTION 4.        AMENDATORY        63 O.S. 1991, Section 1-705, is  
9 amended to read as follows:

10        Section 1-705. A. The State Board of Health, upon  
11 recommendation of the State Commissioner of Health and with the  
12 advice of the ~~Health Facilities~~ Oklahoma Hospital Advisory Council  
13 hereinafter provided for, shall ~~adopt~~ promulgate rules~~, regulations~~  
14 and standards for the construction and operation of hospitals ~~and~~  
15 ~~related institutions~~, for which licenses are required by the terms  
16 of this article, to provide for the proper care of patients. The  
17 ~~adoption~~ promulgation of rules ~~and regulations~~ shall be subject to  
18 and be governed by the provisions of ~~House Bill No. 865 Of the~~  
19 ~~Twenty-ninth Legislature~~ the Administrative Procedures Act.

20        B. Every hospital ~~and related institution~~ shall be periodically  
21 inspected by an authorized representative of the Commissioner~~, and~~  
22 ~~reports~~. Reports of such inspections shall be on forms prescribed  
23 by the Commissioner, who shall, after receipt of such reports, take

1 such action as ~~he deems~~ deemed necessary by the Commission to have  
2 corrected any deficiencies or violations of the rules, ~~regulations~~  
3 and standards of the Board, ~~shown~~ in such reports.

4 C. Hospitals ~~and related institutions~~ licensed under pursuant  
5 to the provisions of this article shall not be exempt from being  
6 inspected or licensed under laws relating to hotels, restaurants,  
7 lodging houses, boarding houses and places of refreshment.

8 D. 1. Every hospital ~~and related institution as defined by~~  
9 ~~Section 1-710 of this title and chemical dependency treatment~~  
10 ~~facilities, other than group homes, halfway houses and transitional~~  
11 ~~living facilities, licensed by the Department~~ that offers or  
12 provides inpatient psychiatric or chemical dependency treatment  
13 services to persons eighteen (18) years of age or younger shall  
14 offer, provide or otherwise make available community-based programs  
15 and services and may make ~~said~~ such programs and services available  
16 directly, through contract, or other appropriate means as determined  
17 by the State Department of Health.

18 2. For the purposes of this subsection the term  
19 "community-based services" shall have the same meaning as ~~said~~ such  
20 term is defined by Section ~~1101~~ 7001-1.3 of Title 10 of the Oklahoma  
21 Statutes.

22 SECTION 5. AMENDATORY 63 O.S. 1991, Section 1-706, is  
23 amended to read as follows:

1 Section 1-706. ~~(a)~~ A. The State Commissioner of Health shall  
2 issue licenses for the operation of hospitals ~~and related~~  
3 ~~institutions~~ found to comply with the provisions of this article and  
4 ~~standards,~~ rules and ~~regulations~~ standards of the State Board of  
5 Health.

6 ~~(b)~~ B. The Commissioner may suspend or revoke any such license  
7 on any of the following grounds:

8 ~~(1)~~ 1. ~~violation~~ Violation of any of the provisions of this  
9 article, or rules, ~~regulations~~ or standards ~~adopted~~ promulgated  
10 pursuant thereto;i

11 ~~(2)~~ 2. ~~permitting~~ Permitting, aiding or abetting the commission  
12 of any illegal act in the licensed hospital or institution;i or

13 ~~(3)~~ 3. ~~conduct of~~ Conduct or practices deemed by the  
14 Commissioner to be detrimental to the welfare of the patients of the  
15 hospital or institution.

16 ~~(c)~~ C. If a license is revoked, a new application for license  
17 shall be considered by the Commissioner on receipt of evidence that  
18 the conditions upon which revocation was based have been corrected;  
19 ~~and a.~~ A new license may then be granted after proper inspection  
20 has been made and all provisions of this article and ~~standards,~~  
21 rules and ~~regulations~~ standards of the State Board of Health have  
22 been satisfied.



1 SECTION 6. AMENDATORY 63 O.S. 1991, Section 1-707, is  
2 amended to read as follows:

3 Section 1-707. A. The State Board of Health, upon the  
4 recommendation of the State Commissioner of Health and with the  
5 advice of the ~~State~~ Oklahoma Hospital Advisory Council ~~hereinafter~~  
6 ~~provided for~~, shall ~~adopt such~~ promulgate rules, ~~regulations~~ and  
7 standards as it deems to be in the public interest for hospitals ~~and~~  
8 ~~related institutions~~, on the following:

- 9 1. Construction plans and location, including fees not to  
10 exceed Two Thousand Dollars (\$2,000.00) for submission or  
11 resubmission of architectural and building plans, and procedures to  
12 ensure the timely review of such plans by the State Department of  
13 Health;
- 14 2. ~~physical~~ Physical plant and facilities;
- 15 3. ~~fire~~ Fire protection and safety;
- 16 4. ~~food~~ Food service;
- 17 5. ~~reports~~ Reports and records;
- 18 6. ~~staffing~~ Staffing and personal service;
- 19 7. ~~surgical~~ Surgical facilities and equipment;
- 20 8. ~~maternity~~ Maternity facilities and equipment;
- 21 9. ~~control~~ Control of communicable disease;
- 22 10. ~~sanitation~~ Sanitation;
- 23 11. ~~laboratory~~ Laboratory services;

1        ~~12. nursing~~ Nursing facilities and equipment; and

2        ~~13. other~~ Other items as may be deemed necessary to carry out  
3 the purposes of this article.

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

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

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

19        2. The Advisory Council shall have the duty and authority to:  
20            a. review and approve in its advisory capacity rules and  
21            standards for hospital licensure,  
22            b. evaluate, review and make recommendations regarding  
23            Department licensure activities, and

1           c. recommend and approve:

2                   (1) quality indicators and data submission  
3                   requirements for hospitals, and

4                   (2) the indicators and data to be used by the  
5                   Department to monitor compliance with licensure  
6                   requirements, and

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

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

12                   a. two members shall be hospital administrators of  
13                   licensed hospitals,

14                   b. two members shall be licensed physicians or  
15                   practitioners who have current privileges to provide  
16                   services in hospitals,

17                   c. two members shall be hospital employees, and

18                   d. three members shall be citizens representing the public  
19                   who:

20                           (1) are not hospital employees,

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

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



1 Section 1-707a. A. The administrator in charge of each  
2 hospital ~~or related institution~~ licensed by the State Commissioner  
3 of Health shall accept for consideration each application for  
4 professional staff privileges submitted by a person licensed to  
5 practice:

6 1. Medicine by the State Board of Medical Licensure and  
7 Supervision;

8 2. Osteopathy by the State Board of Osteopathy;

9 3. Podiatry by the State Board of Podiatry; or

10 4. As a health service psychologist by the Oklahoma State Board  
11 of Examiners of Psychologists.

12 B. The application shall be acted upon by the governing board  
13 of the hospital within a reasonable time. A written report of such  
14 action shall be furnished to the applicant thereafter.

15 C. If a hospital grants staff privileges to a psychologist, at  
16 the time of admission of a patient of the psychologist to the  
17 hospital, the psychologist or the hospital shall identify a  
18 psychiatrist, a medical doctor, or a doctor of osteopathy who shall  
19 be responsible for the medical evaluation and medical management of  
20 the patient.

21 SECTION 8. AMENDATORY 63 O.S. 1991, Section 1-707b, as  
22 last amended by Section 6, Chapter 358, O.S.L. 1995 (63 O.S. Supp.  
23 1998, Section 1-707b), is amended to read as follows:

1 Section 1-707b. A. The administrator in charge of or the  
2 governing board of each hospital ~~or related institution~~ licensed by  
3 the State Commissioner of Health shall adopt written criteria for  
4 use in determining which licensed medical doctors, doctors of  
5 osteopathy, doctors of podiatry, and health service psychologists  
6 shall be granted professional and/or medical staff privileges by the  
7 hospital ~~or related institution~~. A licensed hospital ~~or related~~  
8 ~~institution~~ shall not deny an application based solely on the  
9 applicant's license, as long as the applicant is licensed to  
10 practice:

11 1. Medicine by the State Board of Medical Licensure and  
12 Supervision;

13 2. Osteopathy by the State Board of Osteopathy;

14 3. Podiatry by the State Board of Podiatry; or

15 4. As a health service psychologist by the Oklahoma State Board  
16 of Examiners of Psychologists.

17 B. The accordance and delineation of medical staff membership  
18 or clinical privileges shall be determined on an individual basis  
19 commensurate with an applicant's education, training, experience and  
20 demonstrated clinical competence.

21 C. When medical education training and specialty board  
22 certification are considerations in the credentialing of physicians,  
23 hospitals and health plans shall give equal recognition to those

1 bodies recognized by the federal government for the training and  
2 certification of such physicians. Hospitals and health plans shall  
3 not discriminate, on the basis of education, against eligible  
4 physicians who have:

5 1. Graduated from medical schools and postdoctoral programs  
6 approved by either the American Osteopathic Association or the  
7 Accreditation Council for Graduate Medical Education; or

8 2. ~~Have been~~ Been awarded board eligibility or board  
9 certification by specialty boards recognized by either the American  
10 Osteopathic Association or the American Board of Medical  
11 Specialties.

12 SECTION 9. AMENDATORY Section 12, Chapter 139, O.S.L.  
13 1992 (63 O.S. Supp. 1998, Section 1-1970), is amended to read as  
14 follows:

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

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

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

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

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

11           B. The members of the Home Health Advisory Board shall be  
12 appointed by the State Commissioner of Health ~~from a list of names~~  
13 ~~submitted to the Commissioner by any statewide organization~~  
14 ~~comprised exclusively of home care agencies. The lists submitted to~~  
15 ~~the Commissioner shall contain a number of names equal to twice the~~  
16 ~~number of positions to be appointed for each required membership~~  
17 ~~category on the Home Health Advisory Board~~ with the advice and  
18 consent of the State Board of Health. Each member shall be  
19 appointed for a term of three (3) years except that the initial  
20 appointment of the physician and one administrator shall be for one  
21 (1) year and the initial appointment of one administrator and one  
22 consumer shall be for two (2) years. Vacancies shall be filled in  
23 like manner.



1 C. The State Department of Health shall provide ~~professional~~  
2 ~~and clerical~~ staff to perform the designated duties of the Home  
3 Health Advisory Board. The Department shall ~~also~~ provide meeting  
4 space for the Advisory Board.

5 D. The Advisory Board shall annually elect from among its  
6 membership a ~~chairman~~ chair. The Home Health Advisory Board shall  
7 meet at least quarterly and at such other times as necessary. The  
8 members shall serve without compensation but ~~may~~ shall be reimbursed  
9 for expenses related to their service by the Department pursuant to  
10 the provisions of the State Travel Reimbursement Act, ~~Section 500.1~~  
11 ~~et seq. of Title 74 of the Oklahoma Statutes.~~

12 E. The Home Health Advisory Board shall have the power and duty  
13 to:

14 1. Serve as an advisory body to the Department for the  
15 development and improvement of services to patients of home health  
16 agencies;

17 2. Review and make recommendations to the State Board of Health  
18 regarding rules and standards promulgated by the Board ~~and standards~~  
19 ~~promulgated by the Department;~~

20 3. Approve, in its advisory capacity, rules and standards  
21 promulgated by the Board ~~and the Department;~~ and

1           4. Evaluate and review the standards, practices and procedures  
2 of the Department regarding the administration and enforcement of  
3 the provisions of ~~this act~~ the Home Care Act.

4           SECTION 10.           REPEALER           Sections 1, 2, 3, 4 and 5, Chapter  
5 226, O.S.L. 1994 (63 O.S. Supp. 1998, Sections 1-706.1, 1-706.2, 1-  
6 706.3, 1-706.4 and 1-706.5), are hereby repealed. 63 O.S. 1991,  
7 Sections 2550, 1-710, 1-712, 1-714, 1-715, 1-716, 1-717, 1-718, 1-  
8 720 and 1-721, are hereby repealed.

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

10 COMMITTEE REPORT BY: COMMITTEE ON HUMAN RESOURCES, dated 3-25-99 -  
11 DO PASS, As Amended and Coauthored.