

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 599

By: Crain

4  
5  
6 AS INTRODUCED

7 An Act relating to fees; amending 63 O.S. 2001,  
8 Sections 1-704, 1-822, 1-874, 1-890.4, 1-1905, 1-  
9 1965, and 2659, 40 O.S. 2001, Section 558, and 85  
10 O.S. 2001, Section 14.3, as last amended by Section  
11 1, Chapter 17, 1st Extraordinary Session, O.S.L. 2005  
12 (85 O.S. Supp. 2008, Section 14.3), which relate to  
13 fees assessed by the State Board of Health; directing  
14 the Board to establish certain fees based on  
15 reasonable costs; deleting language limiting certain  
16 period of licensure; permitting certain licenses to  
17 be renewed biennially; providing an effective date;  
18 and declaring an emergency.

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

20 SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-704, is  
21 amended to read as follows:

22 Section 1-704. A. ~~±~~ The application by any person for a  
23 license to operate a hospital within the meaning of this article  
24 shall be accompanied by a fee to be determined by the number of beds  
available for patients, to be established by the State Board of  
Health, ~~but not to exceed Ten Dollars (\$10.00) for each bed included~~  
~~in the maximum bed capacity at such facility~~ based on reasonable  
costs as provided in Section 1-106.1 of this title.

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

3       B. No such fee shall be refunded unless licensure is refused.  
4 All licenses shall be for a period of twelve (12) months from the  
5 date of issue. ~~Provided that licenses may be issued for a period of~~  
6 ~~more than twelve (12) months, but not more than twenty four (24)~~  
7 ~~months, for the license period immediately following the enactment~~  
8 ~~of this provision in order to permit an equitable distribution of~~  
9 ~~license expiration dates to all months of the year.~~

10       C. ~~Fees for such extended licensure period shall be prorated~~  
11 ~~according to the total months to be licensed, with such amounts to~~  
12 ~~be calculated to the nearest dollar.~~

13       ~~D.~~ All licenses:

14       1. Shall be on a form prescribed by the State Commissioner of  
15 Health and shall not be transferable or assignable;

16       2. Shall be issued only for the premises named in the  
17 application;

18       3. Shall be posted in a conspicuous place on the licensed  
19 premises; and

20       4. May be renewed for twelve-month periods upon application,  
21 investigation and payment of license fee, as in the case of  
22 procurement of an original license.

23       SECTION 2.        AMENDATORY        63 O.S. 2001, Section 1-822, is  
24 amended to read as follows:

1 Section 1-822. A. An application for a license, or renewal  
2 thereof, to establish or operate a residential care home shall be  
3 accompanied by a fee of ~~Fifty Dollars (\$50.00)~~ established by the  
4 State Board of Health based on reasonable costs as provided in  
5 Section 1-106.1 of this title. The fee shall not be refunded.  
6 Except as provided for in Section 1-824 of this title, a license  
7 shall expire twenty-four (24) months from the date of issuance,  
8 unless sooner revoked, and may be renewed ~~biannually~~ biennially by  
9 the State Department of Health pursuant to the provisions of the  
10 Residential Care Act. All licenses shall be on a form prescribed by  
11 the State Commissioner of Health, and shall include, but not be  
12 limited to, the maximum bed capacity for which the license is  
13 granted, the date the license was issued, and the expiration date of  
14 the license. The provisions of the license shall require that the  
15 license shall:

- 16 1. Not be transferable or assignable except as authorized by  
17 the provisions of the Residential Care Act;
- 18 2. Be posted in a conspicuous place on the licensed premises;  
19 and
- 20 3. Be issued only for the premises named in the application,  
21 and may be renewed for twenty-four-month periods upon application,  
22 inspection, and payment of the license fee, as required by the  
23 provisions of the Residential Care Act.

24 B. An application shall contain the following information:

1           1. The name and address of the owner of the home. If the owner  
2 is a firm or partnership, the name and address of each member  
3 thereof shall be included in the application. If the owner is a  
4 corporation, the name and address of the corporation and the name  
5 and address of each officer and registered agent of the corporation  
6 shall be included in the application;

7           2. The name and address of the applicant if the applicant is  
8 not the owner and is acting as agent for the owner;

9           3. The name and location of the home for which a license is  
10 sought;

11           4. The name of the administrator of the home;

12           5. The number and type of residents for whom services are to be  
13 provided; and

14           6. The staffing pattern for providing resident care. In the  
15 case of an application for an initial license, the staffing pattern  
16 shown may be the projected staffing pattern.

17           C. Each initial application shall be accompanied by a statement  
18 from the unit of local government having zoning jurisdiction over  
19 the location of the home stating that the location is not in  
20 violation of a zoning ordinance.

21           D. 1. An applicant shall be twenty-one (21) years of age or  
22 older and meet the specific requirements for licensure as specified  
23 in rules promulgated by the State Board of Health pursuant to the  
24 provisions of the Residential Care Act.

1           2. No person who has been convicted of a felony in connection  
2 with the management or operation of a home, or facility as defined  
3 in Section 1-1902 of this title or in the care and treatment of the  
4 residents of a home, or facility as defined in Section 1-1902 or 1-  
5 1950.1 of this title shall be eligible to be licensed or to  
6 participate in the management or operation of a home.

7           3. If the applicant is a firm, partnership, or corporation, the  
8 applicant shall not be eligible to be licensed if any member of the  
9 firm or partnership or any officer or major stockholder of the  
10 corporation has been convicted of a felony in connection with the  
11 operation or management of a home or facility or the care and  
12 treatment of the residents of a home or facility as defined in  
13 Section 1-1902 of this title.

14           E. 1. The application for a license or renewal of a license  
15 shall be accompanied by a statement of ownership which shall include  
16 the following:

17           a. the name, address, telephone number, occupation or  
18 business activity, business address, and business  
19 telephone number of the owner of the home and of every  
20 person who owns the building in which the home is  
21 located. If the owner is a partnership or  
22 corporation, the name and address of each partner and  
23 stockholder with an ownership interest of five percent  
24 (5%) or more shall be included in the statement, and

1           b.    the name and address of any other home in which the  
2                   owner has a full or partial financial interest or, if  
3                   the owner is a partnership or corporation, any other  
4                   home in which the partnership or corporation has a  
5                   full or partial financial interest.   The statement  
6                   shall indicate whether or not any other home wherein a  
7                   full or partial financial interest is held would, if  
8                   located in this state, be required to be licensed.

9           2.    The applicant shall agree in writing, prior to the issuance  
10           of a license, to notify the Department if there is any change in the  
11           information required to be included in the statement of ownership  
12           thirty (30) days in advance of such change.   The information  
13           contained in the statement of ownership shall be public information  
14           and shall be available upon request from the Department.

15           F.   Upon application of a licensee, a license may be modified in  
16           accordance with the provisions of the Residential Care Act.   Such  
17           application for modification of a license shall be accompanied by a  
18           fee ~~of Twenty Dollars (\$20.00)~~ established by the State Board of  
19           Health based on reasonable costs as provided in Section 1-106.1 of  
20           this title and shall be submitted in such form and manner as  
21           required by the Department.

22           G.   Upon payment of the required application fees, the  
23           Commissioner may issue and renew licenses which substantially comply  
24           with the provisions of the Residential Care Act and rules

1 promulgated pursuant thereto; provided, however, a plan of  
2 correction shall be submitted and accepted by both parties prior to  
3 licensure.

4 H. All residential care homes shall be required to have or  
5 employ a certified administrator for the home.

6 SECTION 3. AMENDATORY 63 O.S. 2001, Section 1-874, is  
7 amended to read as follows:

8 Section 1-874. A. An applicant for a license to operate an  
9 adult day care center must file an application on a form approved by  
10 the State Department of Health and pay an initial license fee which  
11 shall be determined by the Department.

12 B. Applications for license renewal must be filed at least  
13 forty-five (45) days before the expiration date of the current  
14 license on a form approved by the Department and a license renewal  
15 fee must be paid which shall be determined by the Department. The  
16 annual license renewal fee shall ~~not exceed Seventy five Dollars~~  
17 ~~(\$75.00)~~ be established by the State Board of Health based on  
18 reasonable costs as provided in Section 1-106.1 of this title.

19 Revenue generated by the collection of license fees shall be  
20 deposited into the Department revolving fund, and shall be used to  
21 help finance the costs associated with the licensing of such center.

22 C. The applicant must provide evidence of compliance with the  
23 requirements of all applicable federal, state and local laws and  
24

1 regulations. In addition to other requirements, an applicant shall  
2 provide a statement of ownership and a financial statement.

3 SECTION 4. AMENDATORY 63 O.S. 2001, Section 1-890.4, is  
4 amended to read as follows:

5 Section 1-890.4 A. Each application for establishment of a  
6 continuum of care facility or assisted living center shall be  
7 accompanied by a nonrefundable application fee. The State Board of  
8 Health shall develop a sliding fee scale not to exceed One Thousand  
9 Dollars (\$1,000.00) for each application. The scale shall be based  
10 upon the bed capacity of the continuum of care facilities or  
11 assisted living centers.

12 B. Each application for an initial license, or annual renewal  
13 of the license, to operate a continuum of care facility or assisted  
14 living center shall be accompanied by a license fee ~~of Ten Dollars~~  
15 ~~(\$10.00) for each bed included in the maximum bed capacity at such~~  
16 ~~facility or center~~ established by the State Board of Health based on  
17 reasonable costs as provided in Section 1-106.1 of this title. Each  
18 application for an initial or renewal license for a continuum of  
19 care facility that includes an adult day care component shall be  
20 accompanied by an additional license fee in an amount to be  
21 determined by the Board, ~~but not to exceed Seventy-five Dollars~~  
22 ~~(\$75.00).~~

23  
24

1 C. Each application to establish or license a continuum of care  
2 facility or assisted living center shall be on a form approved by  
3 the Commissioner to include, but not be limited to, the following:

4 1. Disclosure of the applicant's identity and background in the  
5 operation of continuum of care and assisted living services; and

6 2. Evidence of the adequacy of the applicant's financial  
7 resources and ability to ensure adequate staffing.

8 SECTION 5. AMENDATORY 63 O.S. 2001, Section 1-1905, is  
9 amended to read as follows:

10 Section 1-1905. A. An application for a license, or renewal  
11 thereof, to operate a facility shall be accompanied by a fee of ~~Ten~~  
12 ~~Dollars (\$10.00) for each bed included in the maximum bed capacity~~  
13 ~~at such facility~~ established by the State Board of Health based on  
14 reasonable costs as provided in Section 1-106.1 of this title. All  
15 licenses shall be on a form prescribed by the State Commissioner of  
16 Health, which shall include, but not be limited to, the maximum bed  
17 capacity for which it is granted and the date the license was  
18 issued. The license shall:

- 19 1. Not be transferable or assignable;  
20 2. Be posted in a conspicuous place on the licensed premises;  
21 3. Be issued only for the premises named in the application;

22 and  
23  
24

1           4.   Expire on July 30 of each year, provided an initial license  
2 shall expire one hundred eighty (180) days after the date of  
3 issuance.

4           B.   The fee for a license renewal following an initial license,  
5 or for a license amendment to reflect a change in bed capacity,  
6 shall be prorated based on the number of days remaining until July  
7 30, and, in the case of a change in the number of beds, the total  
8 number of beds.

9           C.   The issuance or renewal of a license after notice of a  
10 violation has been sent shall not constitute a waiver by the State  
11 Department of Health of its power to rely on the violation as the  
12 basis for subsequent license revocation or other enforcement action  
13 under this act arising out of the notice of violation.

14           D.   1.   When transfer of ownership or operation of a facility is  
15 proposed, the transferee shall notify the Department of the transfer  
16 and apply for a new license at least thirty (30) days prior to final  
17 transfer.

18           2.   The transferor shall remain responsible for the operation of  
19 the facility until such time as a license is issued to the  
20 transferee.

21           3.   The license granted to the transferee shall be subject to  
22 the plan of correction submitted by the previous owner and approved  
23 by the Department and any conditions contained in a conditional  
24 license issued to the previous owner.   If there are outstanding

1 violations and no approved plan of correction has been implemented,  
2 the Department may issue a conditional license and plan of  
3 correction as provided in this act.

4 4. The transferor shall remain liable for all penalties  
5 assessed against the facility which are imposed for violations  
6 occurring prior to transfer of ownership.

7 E. Nursing and specialized facilities, as defined and licensed  
8 pursuant to the Nursing Home Care Act shall be surveyed through an  
9 unannounced inspection at least once every fifteen (15) months, with  
10 a statewide average survey cycle of twelve (12) months.

11 SECTION 6. AMENDATORY 63 O.S. 2001, Section 1-1965, is  
12 amended to read as follows:

13 Section 1-1965. A. Every person, corporation, partnership,  
14 association or other legal entity desiring to obtain a license to  
15 establish, or to obtain a renewal license to operate, a home care  
16 agency in this state shall make application to the State Department  
17 of Health in such form and accompanied by such information as the  
18 State Commissioner of Health shall prescribe. Such information  
19 shall include, but not be limited to:

20 1. The name and location of the home care agency for which a  
21 license is sought; and

22 2. The name and address of the person or persons under whose  
23 ownership, operation, management, or supervision the home care  
24 agency will be conducted.

1 B. 1. An application for an initial license to establish or  
2 operate a new home care agency shall be accompanied by a  
3 nonrefundable application fee ~~of up to Three Thousand Dollars~~  
4 ~~(\$3,000.00) not to exceed the reasonable costs incurred by the~~  
5 ~~Department in implementing the Home Care Act~~ established by the  
6 State Board of Health based on reasonable costs as provided in  
7 Section 1-106.1 of this title.

8 2. An application for a license, or renewal thereof, to operate  
9 an existing home care agency shall be accompanied by a nonrefundable  
10 licensing fee ~~of Five Hundred Dollars (\$500.00)~~ established by the  
11 State Board of Health based on reasonable costs as provided in  
12 Section 1-106.1 of this title.

13 3. An application for license, or renewal thereof, to establish  
14 or operate a home care agency branch office of an agency licensed in  
15 the State of Oklahoma shall be accompanied by a nonrefundable  
16 licensing fee ~~of Twenty five Dollars (\$25.00)~~ established by the  
17 State Board of Health based on reasonable costs as provided in  
18 Section 1-106.1 of this title.

19 4. Funds collected pursuant to this section shall be deposited  
20 in the Home Health Care Revolving Fund.

21 C. Disclosure statements shall be completed by the applicant  
22 and all affiliated persons and such other legal entities specified  
23 by this subsection. The disclosure statements shall be made a part  
24

1 of the application and shall include, but not be limited to, the  
2 following information:

3 1. The full name and address of the applicant, and all  
4 affiliated persons;

5 2. The full name and address of any legal entity in which the  
6 applicant holds a debt or equity interest of at least five percent  
7 (5%) or which is a parent company or subsidiary of the applicant;

8 3. A description of any ongoing organizational relationships as  
9 they may impact operations within the state; and

10 4. The names, locations, and dates of ownership, operation, or  
11 management for all current and prior home care agencies owned,  
12 operated or managed in this state or in any other state by the  
13 applicant or by any affiliated persons.

14 D. An application for a license for a home care agency may be  
15 denied by the Commissioner for any of the following reasons:

16 1. Failure to meet any of the minimum standards of the Home  
17 Care Act or rules of the Board promulgated pursuant thereto; or

18 2. Conviction of the applicant, or any affiliated persons, for  
19 any offense listed in subsection F of Section 1-1950.1 of this  
20 title.

21 E. The license issued by the Commissioner shall:

22 1. Not be transferable or assignable except to any affiliated  
23 person, parent company or subsidiary of the applicant or legal  
24

1 entity which has an ongoing organizational relationship with the  
2 applicant;

3 2. Be posted in a conspicuous place, open to the public, on the  
4 licensed premises;

5 3. Be issued only for the premises named in the application;  
6 and

7 4. Except as otherwise provided by this paragraph, expire on  
8 July 31 of each year. The Department shall promulgate rules which  
9 will authorize or allow:

10 a. the term of a renewal license issued pursuant to the  
11 Home Care Act prior to the effective date of this act  
12 which will expire prior to July 1, 1997, to be  
13 extended or any application fee or other fee required  
14 by the Home Care Act to be prorated so that a renewal  
15 license may be issued on August 1, 1997, and

16 b. the issuance of a new license, or a renewal license,  
17 prior to or after the effective date of this act to  
18 establish or operate a home care agency pursuant to  
19 the Home Care Act for less than one (1) year or the  
20 proration of any application fee or other fee so  
21 required so that a renewal license may be issued on  
22 August 1, 1997.

23 F. After issuing a license, the Commissioner may revoke or  
24 suspend the license based on any of the following grounds:

1 1. Violation of any of the provisions of the Home Care Act or  
2 the rules or standards promulgated by the Board; or

3 2. Permitting, aiding, or abetting the commission of any  
4 illegal act by a licensed home care agency.

5 G. The issuance or renewal of a license after notice of a  
6 violation shall not constitute a waiver by the Department of its  
7 power to rely on the violation as the basis for subsequent  
8 revocation of a license or other enforcement action authorized by  
9 the Home Care Act.

10 H. For purposes of this section:

11 1. "Affiliated person" means:

- 12 a. any officer, director or partner of the applicant,
- 13 b. any person employed by the applicant as a general or  
14 key manager who directs the operations of the facility  
15 which is the subject of the application, and
- 16 c. any person owning or controlling more than five  
17 percent (5%) of the applicant's debt or equity; and

18 2. "Subsidiary" means any person, firm, corporation or other  
19 legal entity which:

- 20 a. controls or is controlled by the applicant,
- 21 b. is controlled by an entity that also controls the  
22 applicant, or
- 23 c. the applicant or an entity controlling the applicant  
24 has directly or indirectly the power to control.

1 SECTION 7. AMENDATORY 63 O.S. 2001, Section 2659, is  
2 amended to read as follows:

3 Section 2659. A. Application for a license shall be made to  
4 the Commissioner upon forms provided by the Commissioner and shall  
5 contain such information as the Commissioner may require. The  
6 Commissioner shall require affirmative evidence of ability to comply  
7 with such reasonable standards, rules and regulations as are  
8 lawfully prescribed under the provisions of this act.

9 B. Each application for a license, except applications from  
10 governmental units, shall be accompanied by an annual license fee of  
11 ~~One Hundred Dollars (\$100.00)~~ established by the State Board of  
12 Health based on reasonable costs as provided in Section 1-106.1 of  
13 this title. All license fees shall be deposited in the State  
14 Treasury to the credit of the General Fund of the Department of  
15 Health.

16 SECTION 8. AMENDATORY 40 O.S. 2001, Section 558, is  
17 amended to read as follows:

18 Section 558. A. On and after July 1, 1994, no testing facility  
19 shall provide laboratory services to an employer to test for the  
20 presence or absence of drugs or alcohol unless it meets the  
21 qualifications established for testing facilities pursuant to  
22 Section 7 557 of this ~~act~~ title and is licensed by the State  
23 Department of Health to perform such tests. The State Board of  
24 Health shall promulgate rules relating to the issuance of such

1 license, including rules governing license revocation, suspension  
2 and nonrenewal.

3 B. The fees for licensure of testing facilities by the State  
4 Department of Health shall be set by the State Board of Health and  
5 ~~shall not be more than One Hundred Fifty Dollars (\$150.00) annually~~  
6 based on reasonable costs as provided in Section 1-106.1 of Title 63  
7 of the Oklahoma Statutes.

8 C. Any testing facility providing laboratory services to an  
9 employer to test for the evidence of drugs or alcohol which is not  
10 licensed by the State Department of Health pursuant to this section  
11 shall be subject to an administrative fine of not more than Five  
12 Hundred Dollars (\$500.00) for each offense. Each test performed by  
13 the unlicensed testing facility in violation of this section shall  
14 constitute a separate offense.

15 SECTION 9. AMENDATORY 85 O.S. 2001, Section 14.3, as  
16 last amended by Section 1, Chapter 17, 1st Extraordinary Session,  
17 O.S.L. 2005 (85 O.S. Supp. 2008, Section 14.3), is amended to read  
18 as follows:

19 Section 14.3 A. Any person or entity may make written  
20 application to the Commissioner of Health of the State of Oklahoma  
21 to have a workplace medical plan certified that provides management  
22 of quality treatment to injured employees for injuries and diseases  
23 compensable under the Workers' Compensation Act. Each application  
24 for certification shall be accompanied by a fee ~~of One Thousand Five~~

1 ~~Hundred Dollars (\$1,500.00)~~ established by the State Board of Health  
2 based on reasonable costs as provided in Section 1-106.1 of Title 63  
3 of the Oklahoma Statutes. A workplace medical plan may be certified  
4 to provide services to a limited geographic area. A certificate is  
5 valid for a five-year period, unless revoked or suspended.

6 Application for certification shall be made in the form and manner  
7 and shall set forth information regarding the proposed program for  
8 providing services as the Commissioner may prescribe. The  
9 information shall include, but not be limited to:

10 1. A list of the names of all medical providers who will  
11 provide services under the plan, together with appropriate evidence  
12 of compliance with any licensing or certification requirements for  
13 those providers to practice in this state; and

14 2. A description of the places and manner of providing services  
15 under the plan.

16 B. 1. The Commissioner shall not certify a plan unless the  
17 Commissioner finds that the plan:

18 a. proposes to provide quality services for all medical  
19 services which:

20 (1) may be required by the Workers' Compensation Act  
21 in a manner that is timely, effective and  
22 convenient for the employee, and

23 (2) utilizes medical treatment guidelines and  
24 protocols substantially similar to those

1 established for use by medical service providers,  
2 which have been recommended by the Physician  
3 Advisory Committee and adopted by the  
4 Administrator pursuant to subsection B of Section  
5 201.1 of this title. If the Administrator has  
6 not adopted medical treatment guidelines and  
7 protocols, the Commissioner may certify a plan  
8 that utilizes medical guidelines and protocols  
9 established by the plan if, in the discretion of  
10 the Commissioner, the guidelines and protocols  
11 are reasonable and will carry out the intent of  
12 the Workers' Compensation Act. Certified plans  
13 must utilize medical treatment guidelines and  
14 protocols substantially similar to those adopted  
15 by the Administrator pursuant to Section 201.1 of  
16 this title, as such guidelines and protocols  
17 become adopted,

- 18 b. is reasonably geographically convenient to residents  
19 of the area for which it seeks certification,
- 20 c. provides appropriate financial incentives to reduce  
21 service costs and utilization without sacrificing the  
22 quality of service,
- 23 d. provides adequate methods of peer review, utilization  
24 review and dispute resolution to prevent

- 1 inappropriate, excessive or medically unnecessary  
2 treatment, and excludes participation in the plan by  
3 those providers who violate these treatment standards,  
4 e. requires the dispute resolution procedure of the plan  
5 to include a requirement that disputes on an issue,  
6 including a subsequent change of physician as  
7 described in the provisions of Section 14 of this  
8 title and this section, related to medical care under  
9 the plan be attempted to be resolved within ten (10)  
10 days of the time the dispute arises and if not  
11 resolved within ten (10) days, the employee may pursue  
12 remedies in the Workers' Compensation Court,  
13 f. provides aggressive case management for injured  
14 employees and a program for early return to work,  
15 g. provides workplace health and safety consultative  
16 services,  
17 h. provides a timely and accurate method of reporting to  
18 the Commissioner necessary information regarding  
19 medical service costs and utilization to enable the  
20 Commissioner to determine the effectiveness of the  
21 plan,  
22 i. authorizes necessary emergency medical treatment for  
23 an injury provided by a provider of medical, surgical,  
24 and hospital services who is not a part of the plan,

1           j.    does not discriminate against or exclude from  
2                participation in the plan any category of providers of  
3                medical, surgical, or hospital services and includes  
4                an adequate number of each category of providers of  
5                medical, surgical, and hospital services to give  
6                participants access to all categories of providers and  
7                does not discriminate against ethnic minority  
8                providers of medical services, and

9           k.    complies with any other requirement the Commissioner  
10                determines is necessary to provide quality medical  
11                services and health care to injured employees.

12           2.    The Commissioner may accept findings, licenses or  
13                certifications of other state agencies as satisfactory evidence of  
14                compliance with a particular requirement of this section.

15           C.    If any insurer, except CompSource Oklahoma, fails to  
16                contract with or provide access to a certified workplace medical  
17                plan, an insured, after sixty (60) days' written notice to its  
18                insurance carrier, shall be authorized to contract independently  
19                with a plan of his or her choice for a period of one (1) year, to  
20                provide medical care under the Workers' Compensation Act. The  
21                insured shall be authorized to contract, after sixty (60) days'  
22                written notice to its insurance carrier, for additional one-year  
23                periods if his or her insurer has not contracted with or provided  
24                access to a certified workplace medical plan.

1 D. If CompSource Oklahoma fails to contract with at least three  
2 certified workplace medical plans, each covering at least fifty  
3 counties, then the insured, after sixty (60) days' written notice to  
4 CompSource Oklahoma, shall be authorized to contract independently  
5 with a plan of the insured's choice for a period of one (1) year to  
6 provide medical care under the Workers' Compensation Act. The  
7 insured shall be authorized to contract, after sixty (60) days'  
8 written notice to CompSource Oklahoma, for additional one-year  
9 periods if CompSource Oklahoma has not contracted with or fails to  
10 continue contracts with at least three certified workplace medical  
11 plans covering at least fifty counties.

12 E. An employee shall exhaust the dispute resolution procedure  
13 of the certified workplace medical plan before seeking legal relief  
14 on an issue related to medical care under the plan, including a  
15 subsequent change of physician as described in the provisions of  
16 Section 14 of this title and this section, provided the dispute  
17 resolution procedure shall create a process which shall attempt to  
18 resolve the dispute within ten (10) days of the time the dispute  
19 arises and if not resolved within ten (10) days, the employee may  
20 pursue remedies in the Workers' Compensation Court.

21 F. The Commissioner shall refuse to certify or shall revoke or  
22 suspend the certification of a plan if the Commissioner finds that  
23 the program for providing medical or health care services fails to  
24

1 meet the requirements of this section, or service under the plan is  
2 not being provided in accordance with the terms of a plan.

3 G. On or before November 1, 2005, the Commissioner of Health  
4 shall implement a site visit protocol for employees of the State  
5 Department of Health to perform an inspection of a certified  
6 workplace medical plan to ensure that medical services to a claimant  
7 and the medical management of the claimant's needs are adequately  
8 met in a timely manner and that the certified workplace medical plan  
9 is complying with all other applicable provisions of this act and  
10 the rules of the State Department of Health. Such protocol shall  
11 include, but not be limited to:

12 1. A site visit shall be made to each certified workplace  
13 medical plan not less often than once every year, but not later than  
14 thirty (30) days following the anniversary date of issuance of the  
15 initial or latest renewal certificate;

16 2. A site visit shall conclude with a determination that a  
17 certified workplace medical plan is or is not operating in  
18 accordance with its latest application to the State Department of  
19 Health;

20 3. Compliant operations shall include, but not be limited to:

21 a. timely and effective medical services are available  
22 with reasonable geographic convenience,

23 b. use of appropriate treatment guidelines and protocols,  
24 and

1 c. effective programs for utilization review, case  
2 management, grievances, and dispute resolution;

3 4. Performance of a site visit shall include:

4 a. inspection of organizational documentation,

5 b. inspection of systems documentation and processes,

6 c. random or systematic sampling of closed and open case  
7 management cases (files),

8 d. random or systematic sampling, or a one hundred  
9 percent (100%) inspection of all dispute resolution,  
10 grievance, and/or Department of Health request for  
11 assistance files,

12 e. workplace medical plan employee and management  
13 interviews, as appropriate;

14 5. An initial site visit may occur with an interval of less  
15 than twelve (12) months to a recently certified plan, or a site  
16 visit may occur more often than once in every twelve (12) months if  
17 the Commissioner of Health has reason to suspect that a plan is not  
18 operating in accordance with its certification;

19 6. If a deficient practice is identified during a site visit,  
20 the State Department of Health shall require a certified workplace  
21 medical plan to submit a timely and acceptable written plan of  
22 correction, and then may perform a follow-up visit(s) to ensure that  
23 the deficient practice has been eliminated;

24

1 7. A deficient practice that is not remedied by a certified  
2 workplace medical plan on a timely basis shall require the  
3 Commissioner of Health to revoke or to suspend the certification of  
4 a plan;

5 8. The fees payable to the State Department of Health shall be:

6 ~~a. One Thousand Five Hundred Dollars (\$1,500.00) for an~~  
7 ~~initial, annual site visit,~~

8 ~~b. One Thousand Dollars (\$1,000.00) if a follow up visit~~  
9 ~~is performed,~~

10 ~~c. established by the State Board of Health based on~~  
11 ~~reasonable costs as provided in Section 1-106.1 of~~  
12 ~~Title 63 of the Oklahoma Statutes. These fees shall~~  
13 ~~be separate from the once in five (5) years~~  
14 ~~certification application fee,~~ and

15 ~~d. not charged if more than two site visits occur in a~~  
16 ~~twelve-month period; and~~

17 9. In addition to the site visit fee, employees of the State  
18 Department of Health may charge to the certified workplace medical  
19 plan reasonable travel and travel-related expenses for the site  
20 visit such as overnight lodging and meals. A certified workplace  
21 medical plan shall reimburse travel expenses to the State Department  
22 of Health at rates equal to the amounts then currently allowed under  
23 the State Travel Reimbursement Act.

1 H. The State Board of Health shall adopt such rules as may be  
2 necessary to implement the provisions of this title and this  
3 section. Such rules shall authorize any person to petition the  
4 Commissioner of Health for decertification of a certified workplace  
5 medical plan for material violation of any rules promulgated  
6 pursuant to this section.

7 SECTION 10. This act shall become effective July 1, 2009.

8 SECTION 11. It being immediately necessary for the preservation  
9 of the public peace, health and safety, an emergency is hereby  
10 declared to exist, by reason whereof this act shall take effect and  
11 be in full force from and after its passage and approval.

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