

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 HOUSE BILL 2276

By: Murphey

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5
6 AS INTRODUCED

7 An Act relating to public health and safety; creating
8 the Whole Woman's Health Funding Priorities Act;
9 making legislative findings; establishing legislative
10 intent; defining terms; establishing priority of
11 public funding for family planning services;
12 prohibiting State Department of Health from entering
13 into certain contract; authorizing Attorney General
14 to bring action; providing for availability of
15 certain relief; providing for standing of certain
16 entities to bring action; providing for attorney
17 fees; providing for intervention if constitutionality
18 is challenged; providing that certain appropriations
19 be null and void; providing for codification; and
20 providing an effective date.

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

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1-746.1 of Title 63, unless
24 there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Whole Woman's
Health Funding Priorities Act".

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-746.2 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 A. Limited federal and state public funding exists for family
5 planning and preventive health services for women generally, and for
6 maternal and fetal patients in particular. Fiscal constraints
7 mandate that the state allocate available funding efficiently. The
8 principal means by which the state may fulfill its duty to steward
9 these funds is to ensure that funds are distributed by priority to
10 the most efficient point-of-service health care providers. The
11 Legislature finds that public and private providers of primary and
12 preventive care utilize public funds more effectively than providers
13 of health care services that are specialized to particular medical
14 services or discrete patient populations. Consequently, it is the
15 intention of the Legislature through the Whole Woman's Health
16 Funding Priorities Act and any rules and policies promulgated
17 hereunder to prioritize the distribution and utilization of public
18 funds for family planning, reproductive health care and
19 maternal/fetal care to such public and private primary and
20 preventive care providers.

21 B. Prioritization of public health care funding to primary and
22 preventive care also reflects sound health care policy. Individuals
23 who have a primary care clinician are more likely to access health
24 care services, leading to more favorable long-term outcomes. Health

1 care costs are lowered when primary and preventive care is provided
2 by such primary care clinicians in a setting that addresses the
3 whole person by emphasizing counseling, screening and early
4 detection of leading causes of morbidity and mortality, including
5 diabetes, hypertension, obesity, cardiovascular and renal diseases,
6 and asthma. Indirect costs such as lost worker productivity and
7 employer health care costs are also reduced. Most importantly,
8 individual citizens will lead longer, healthier and happier lives as
9 a result of having less fragmented health care.

10 C. It is also the public policy of this state to ensure
11 delivery of comprehensive preconception and prenatal care for
12 maternal and fetal patients in order to reduce maternal and fetal
13 morbidity and mortality. The U.S. Centers for Disease Control
14 states, "Comprehensive preconception and prenatal care includes
15 encouraging women to stop smoking, refrain from using alcohol and
16 other drugs, eat a healthy diet, take folic acid supplements,
17 maintain a healthy weight, control high blood pressure and diabetes,
18 and reduce exposure to workplace and environmental hazards. In
19 addition, screening and providing services to prevent intimate
20 partner violence and infections (e.g., HIV, STI and viral hepatitis)
21 help to improve the health of the mother and the baby." Delivery of
22 these critical services is best accomplished through a single point-
23 of-service provider such as a primary care provider, and directed by
24 a primary care clinician who has knowledge of the patient's medical

1 history and personal, familial and environmental health factors.
2 The utilization of public funding to maximize effective delivery of
3 holistic prenatal and maternal health care conflicts with medical
4 intervention models that emphasize the provision of services to
5 discrete patient subpopulations, e.g., women of child-bearing age,
6 to address discrete patient conditions or provide particular
7 therapies.

8 D. Federal and state law provide that nontherapeutic abortion
9 shall not be subsidized with public funds. Moreover, it is also the
10 public policy of this state that public funds shall not be provided
11 for the direct or indirect costs (e.g., overhead, rent, and
12 utilities) of nontherapeutic ("elective") abortion procedures by
13 providing funds to state contractors or grantees that regularly
14 provide such procedures.

15 SECTION 3. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 1-746.3 of Title 63, unless
17 there is created a duplication in numbering, reads as follows:

18 As used in the Whole Woman's Health Funding Priorities Act:

19 1. "Federally qualified abortion" means an abortion qualified
20 for federal reimbursement under the Medicaid program, 42 U.S.C.A.,
21 Section 1396 et seq., and as amended hereafter;

22 2. "Abortion" means the use of any means to terminate the
23 clinically diagnosable pregnancy of a woman with knowledge that the
24 termination by those means will cause, with reasonable likelihood,

1 the death of the unborn child. Abortion does not include birth
2 control devices, oral contraceptives used to inhibit or prevent
3 ovulation, conception or the implantation of a fertilized ovum in
4 the uterus or the use of any means to increase the probability of a
5 live birth, to preserve the life or health of the child after a live
6 birth, to terminate an ectopic pregnancy or to remove a dead fetus;

7 3. "Public funds" means state funds from whatever source,
8 including without limitation state general revenue funds, state
9 special account and limited purpose grants and/or loans, and federal
10 funds provided under Title X of the Public Health Service Act (42
11 U.S.C., Section 300 et seq.) and Title V (42 U.S.C., Section 701 et
12 seq.), Title XIX (42 U.S.C., Section 1396 et seq.) and Title XX (42
13 U.S.C., Section 1397 et seq.) of the Social Security Act;

14 4. "Federally qualified health center" means a health care
15 provider that is eligible for federal funding under 42 U.S.C.,
16 Section 1396d(1)(2)(B);

17 5. "Rural health clinic" means a health care provider that is
18 eligible for federal funding under 42 U.S.C., Section 1395x(aa)(2);

19 6. "Hospital" means a primary or tertiary care facility
20 licensed pursuant to Section 1-701 et seq. of Title 63 of the
21 Oklahoma Statutes; and

22 7. "Department" means the State Department of Health.
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1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-746.4 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 Subject to any applicable requirements of federal statutes,
5 rules, regulations or guidelines:

6 1. Any expenditures or grants of public funds for family
7 planning services by the state by and through the State Department
8 of Health shall be made in the following order of priority:

- 9 a. to public entities,
- 10 b. to nonpublic hospitals and federally qualified health
11 centers,
- 12 c. to rural health clinics, and
- 13 d. to nonpublic health providers that have as their
14 primary purpose the provision of the primary health
15 care services enumerated in 42 U.S.C., Section
16 254b(a) (1); and

17 2. The Department shall not enter into a contract with, or make
18 a grant to, any entity that performs nonfederally qualified
19 abortions or maintains or operates a facility where nonfederally
20 qualified abortions are performed.

21 SECTION 5. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1-746.5 of Title 63, unless
23 there is created a duplication in numbering, reads as follows:

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1 A. The Attorney General shall have authority to bring an action
2 in law or equity to enforce the provisions of the Whole Woman's
3 Health Funding Priorities Act, and relief shall be available in
4 appropriate circumstances including recoupment and declaratory and
5 injunctive relief, including without limitation suspension or
6 debarment.

7 B. Any entity eligible for the receipt of public funds, as
8 defined in paragraph 3 of Section 3 of this act, shall possess
9 standing to bring any action that the Attorney General has authority
10 to bring pursuant to the provisions of subsection A of this section,
11 provided, however, that an expenditure or grant of public funds made
12 in violation of the Whole Woman's Health Funding Priorities Act has
13 resulted in the reduction of public funds available to it, and that
14 any award of monetary relief shall be made to an appropriate public
15 officer for deposit into one or more accounts maintained by the
16 state for public funds enumerated in paragraph 3 of Section 3 of
17 this act.

18 C. In an action brought pursuant to this section, a prevailing
19 plaintiff shall be entitled to an award of reasonable attorney fees
20 and costs.

21 SECTION 6. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1-746.6 of Title 63, unless
23 there is created a duplication in numbering, reads as follows:

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1 The Legislature, through one or more sponsors of the Whole
2 Woman's Health Funding Priorities Act duly appointed by resolution
3 of their respective chamber, may intervene as a matter of right in
4 any case in which the constitutionality of the Whole Woman's Health
5 Funding Priorities Act is challenged.

6 SECTION 7. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 1-746.7 of Title 63, unless
8 there is created a duplication in numbering, reads as follows:

9 Any appropriation of public funds made by the State Department
10 of Health in derogation of the provisions of Section 4 of this act
11 shall be null and void as of November 1, 2012, and the funds
12 allocated pursuant to said appropriation shall be reallocated to
13 eligible entities.

14 SECTION 8. This act shall become effective November 1, 2012.

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