

AMENDMENT TO COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1942 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Randy Grau

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1942

By: Bennett

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8 PROPOSED COMMITTEE SUBSTITUTE

9 An Act relating to public health and safety; creating
10 the Oklahoma Veterans Recovery Plan Act of 2013;
11 requiring treatment for certain injuries; defining
12 term; requiring Oklahoma Health Care Authority to
13 seek certain waivers; creating the Oklahoma Evidence-
14 based Practice Center; creating the Oklahoma TBI
15 Treatment Act; requiring payment to be made from
16 certain trust funds; requiring annual report;
17 requiring priority for certain treatment; designating
18 certain program as state health account; providing
19 for expenditures from certain fund; providing for
20 certain revenue sources; providing for codification;
21 and declaring an emergency.

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

23 SECTION 1. NEW LAW A new section of law to be codified
24 in the Oklahoma Statutes as Section 1-291 of Title 63, unless there
is created a duplication in numbering, reads as follows:

Sections 1 through 5 of this act shall be known and may be cited
as the "Oklahoma Veterans Recovery Plan Act of 2013".

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-291.1 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 Effective biological repair treatments and other therapies shall
5 be made available for treatment of brain insults and post-traumatic
6 stress disorder, and other service-connected injuries to citizens of
7 this state.

8 Effective treatment shall begin and payment for effective
9 treatment shall be organized under observational study regulations
10 creating controlled deployment, with shared responsibility between
11 the state's two medical schools, medical treatment, education, data
12 collection, workforce education and training, and capital resources
13 as well as coordination of resources throughout the state to meet
14 the state emergency. The State Insurance Commission shall begin
15 recovery of the state's costs for delivering such treatments.

16 SECTION 3. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1-291.2 of Title 63, unless
18 there is created a duplication in numbering, reads as follows:

19 A. For the purposes of the Oklahoma Veterans Recovery Plan Act
20 of 2013, hyperbaric oxygen treatment ("HBOT") shall mean treatment
21 in a hyperbaric chamber cleared by the United States Food and Drug
22 Administration ("FDA") with a valid prescription, or a device with
23 an appropriate FDA-approved investigational device exemption, at a
24 location in compliance with applicable state fire codes, supervised

1 in accordance with requirements in the Oklahoma Veterans Recovery
2 Plan Act of 2013, which shall be deemed to meet all third-party
3 payer requirements, and delivered by authorized, licensed or
4 nationally certified health care providers and otherwise in
5 accordance with state law. No other more restrictive rules
6 restricting payment shall be placed upon the practitioner or health
7 care provider in the state. No payment shall be denied by a third
8 party payer when treatment is delivered under these rules, under
9 valid prescription for any FDA-cleared HBOT indication or when
10 delivered under the auspices of an Institutional-Review-Board-
11 approved observational study with an NCT number. The requirement
12 for physician supervision shall permit the use of telemedicine tools
13 to provide such supervision. The physical presence of a physician
14 is not necessary.

15 B. 1. Physician supervision shall be paid at the Centers for
16 Medicare and Medicaid Services (CMS) published Part B facility rate.
17 Of this fee, no less than fifty percent (50%) of the published rate
18 shall be paid to the physician who actually provides the
19 supervision, after contractual or institutional fees are subtracted
20 from the gross payment.

21 2. Physician supervision provided by telemedicine shall be
22 considered the equivalent of physician supervision provided by the
23 physical presence of a physician under this requirement. Where
24 possible or practicable, physical physician presence is preferable.

1 3. The purpose of physician supervision is to validate:

2 a. that the treatment protocol is being followed,

3 b. that clearly indicated patient risks are being
4 avoided,

5 c. that symptoms of rare side effects are not being
6 manifested, and

7 d. that treatment was provided for in accordance with the
8 required FDA-approved research protocols as
9 applicable.

10 4. Patient interaction is intended to ensure patient progress
11 and reassurance as their treatment progresses. The bench marks
12 being evaluated under the research protocols involved may be missed
13 by personnel of lesser training. Therefore, the physician shall:

14 a. converse with the patient or caregiver prior to
15 treatment to ensure the patient is making adequate
16 progress anticipated under the specified treatment
17 protocol,

18 b. perform, or cause to be performed by a qualified
19 person, any appropriate pre-dive exam should questions
20 during the pretreatment interview warrant such
21 examination,

22 c. record patient progress notes appropriately,

23 d. validate that the treatment given was in accordance
24 with the patient prescription or protocol,

- e. check with the provider during the treatment time to make sure treatment is proceeding smoothly,
- f. be available posttreatment should any concerns have arisen during treatment, and
- g. enter data into the patient's treatment record appropriately, validating the date of treatment, the protocol followed, the duration of treatment, and any expected or unexpected adverse events, in accordance with best practices guidelines.

5. Other physician responsibilities to other duties during the time of treatment are not to be restricted.

6. No other more restrictive requirements may be imposed in the State of Oklahoma outside of these guidelines by any payer.

7. Where HBOT has been shown to reduce the costs of treatment of certain conditions and injuries, the Oklahoma Health Care Authority shall seek any waivers or approvals required from the CMS in order to implement the safe and effective use of HBOT throughout the state Medicaid system.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-291.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

The Center for Aerospace and Hyperbaric Medicine of the Oklahoma State University Center for Health Sciences ("OSUCHS CAHM") shall be the state institution with authority to draw from the National Guard

1 Relief Fund and the Trauma Care Assistance Revolving Fund ("TCARF")
2 for all authorized expenditures. All providers who are seeking
3 payment for services to persons receiving services under the
4 Oklahoma Veterans Recovery Plan Act of 2013 shall bill the Center
5 for Aerospace and Hyperbaric Medicine in accordance with published
6 procedures. Providers shall be paid for those services at Medicare
7 published rates for those services, less the appropriate
8 administrative, program fees, capital improvement or training fees
9 applicable to each site.

10 SECTION 5. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 1-291.4 of Title 63, unless
12 there is created a duplication in numbering, reads as follows:

13 A. This section shall be known and may be cited as the
14 "Oklahoma TBI Treatment Act".

15 B. Payment for treatments (including diagnostic testing) for
16 brain insults including traumatic brain injury or post-traumatic
17 stress disorder received by residents of the state shall be paid
18 from the respective trust funds in accordance with procedures
19 described.

20 C. The approval of a treatment payment pursuant to subsection B
21 of this section shall be subject to the following conditions:

22 1. Any drug or device used in the treatment must be approved or
23 cleared by the Food and Drug Administration for any purpose;

24

1 2. The treatment (including any patient disclosure
2 requirements) must be used by the health care provider delivering
3 the treatment;

4 3. The patient receiving the treatment must demonstrate an
5 improvement as a result of the treatment on one or more of the
6 following:

- 7 a. standardized independent pretreatment and
- 8 posttreatment neuropsychological testing,
- 9 b. accepted survey instruments,
- 10 c. neurological imaging, and
- 11 d. clinical examination; and

12 4. The patient receiving the treatment shall be receiving the
13 treatment voluntarily.

14 D. The database containing data from each patient case
15 involving the use of a treatment under the Oklahoma TBI Treatment
16 Act shall be accessible to all relevant policy makers and policy-
17 making bodies, as well as to payers. The state shall ensure that
18 the database preserves confidentiality and be made available only:

19 1. For third-party payer examination;

20 2. To the appropriate governmental organizations, congressional
21 committees and employees of the Department of Defense, the
22 Department of Veterans Affairs, the Department of Health and Human
23 Services, and appropriate state agencies; and

1 3. To the primary investigator of the institutional review
2 board that approved the treatment, in the case of data relating to a
3 patient case involving the use of such treatment.

4 E. In the case of a patient enrolled in a registered
5 institutional review board study, results may be publically
6 distributable in accordance with the regulations prescribed pursuant
7 to the Health Insurance Portability and Accountability Act of 1996
8 and other regulations and practices in effect as of the date of the
9 enactment of the Oklahoma TBI Treatment Act.

10 F. The state shall include a list of all civilian institutional
11 review board studies that have received a payment under the Oklahoma
12 TBI Treatment Act.

13 G. No retaliation may be made against any member of the Armed
14 Forces or veteran or other state resident who receives treatment as
15 part of registered institutional review board study carried out by a
16 civilian health care practitioner.

17 H. Not later than thirty (30) days after the last day of each
18 fiscal year during which the state is authorized to make payments
19 under the Oklahoma TBI Treatment Act, the Secretary shall jointly
20 submit to the Legislature and the Governor an annual report on the
21 implementation of the Oklahoma TBI Treatment Act. Such report shall
22 include each of the following for that fiscal year:

23 1. The number of individuals for whom the Secretary has
24 provided payments under the Oklahoma TBI Treatment Act;

1 2. The condition for which each such individual receives
2 treatment for which payment is provided under the Oklahoma TBI
3 Treatment Act and the success rate of each such treatment;

4 3. Treatment methods that are used by entities receiving
5 payment provided under the Oklahoma TBI Treatment Act and the
6 respective rate of success of each such method; and

7 4. The recommendations of the Secretary with respect to the
8 integration of treatment methods for which payment is provided under
9 the Oklahoma TBI Treatment Act into facilities of the Department of
10 Defense and Department of Veterans Affairs.

11 I. The authority to make a payment under the Oklahoma TBI
12 Treatment Act shall terminate on the date that is five (5) years
13 after its enactment.

14 J. The Insurance Department of the State of Oklahoma shall have
15 the responsibility to collect payments from the payer responsible
16 for a given patient's treatment as specified under the Oklahoma TBI
17 Treatment Act. These funds less the expenses of the Insurance
18 Commissioner's office shall be paid to the respective fund from
19 which original payment was made. Any requirement of medical
20 necessity or preapproval will be deemed as having already been met
21 regardless of a payer's objection. Medical necessity shall have
22 been determined by whether positive health outcomes were achieved
23 under the treatment requirements of the Oklahoma TBI Treatment Act.

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1 To prevent retaliation against those who received treatment
2 under the Oklahoma TBI Treatment Act, patient confidentiality shall
3 be maintained. Independent verification procedures, such as
4 independent auditing of patient records validating the payer's
5 responsibility, shall be created.

6 SECTION 6. It being immediately necessary for the preservation
7 of the public peace, health and safety, an emergency is hereby
8 declared to exist, by reason whereof this act shall take effect and
9 be in full force from and after its passage and approval.

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11 54-1-7152 AM 02/18/13

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