

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 54th Legislature (2014)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2668

 By: Derby

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to Medicaid; expanding scope of
10 authority of the Office of Attorney General;
11 providing for powers necessary for investigation;
12 providing for access to records; providing that
13 records are confidential and not subject to the
14 Oklahoma Open Records Act, with exception;
15 prohibiting refusal to provide records; providing for
16 physician immunity; prohibiting expenditure of
17 certain funds; providing for codification; and
18 providing an effective date.

19
20
21
22
23
24
25 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

 SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1009 of Title 56, unless there
is created a duplication in numbering, reads as follows:

 A. In addition to the duties and authority of the Office of
Attorney General provided for in the Oklahoma Medicaid Program
Integrity Act, the Office of Attorney General shall be the state
entity to which any case of suspected Medicaid fraud alleged to have
been committed by a Medicaid recipient shall be referred for the

1 purposes of investigation, civil action, criminal action or referral
2 to the district attorney. Provided however, nothing contained in
3 this section shall prohibit other proper law enforcement agencies
4 from investigating cases of suspected Medicaid fraud by Medicaid
5 recipients, nor the Attorney General from pursuing cases of Medicaid
6 fraud by Medicaid recipients without any referral if there is
7 credible evidence of fraud.

8 B. 1. In carrying out these responsibilities, the Attorney
9 General shall have all the powers necessary to investigate cases of
10 alleged Medicaid fraud by Medicaid recipients including, but not
11 limited to, the power to issue or cause to be issued subpoenas or
12 other process in aid of investigations and prosecutions, the power
13 to administer oaths and take sworn statements under penalty of
14 perjury, the power to serve and execute in any county, search
15 warrants which relate to investigations authorized by this section
16 and shall have all the powers of a district attorney.

17 2. Subpoenas ad testificandum or duces tecum issued pursuant to
18 this section may be served by the Attorney General, any peace
19 officer, or any competent person over eighteen (18) years of age,
20 and may require attendance or production at any place in this state.
21 A refusal to obey such subpoena, or willful failure to appear, be
22 sworn, testify, or produce records at the place and time specified
23 shall constitute contempt and shall be enforced by the district
24 court of the county where issued or the county where served, at the

1 election of the Attorney General, as if it was a contempt on that
2 court.

3 C. The Attorney General shall be allowed access to all records
4 of persons and Medicaid recipients under this section which are held
5 by a provider, a Medicaid recipient or the Oklahoma Health Care
6 Authority for the purpose of investigating whether any Medicaid
7 recipient may have committed the crime of Medicaid fraud, or for use
8 or potential use in any legal, administrative, or judicial
9 proceeding. In carrying out the purposes of this section, the
10 Attorney General may take possession of records held by a provider
11 or Medicaid recipient by subpoena, in which case copies of those
12 records obtained by the Attorney General which are necessary for a
13 provider to continue doing business shall be supplied to the
14 provider, or the Attorney General may elect to require that the
15 provider supply the Attorney General with copies of the records.
16 Upon request, the Attorney General shall be granted access to
17 records, including electronic data, held by the Oklahoma Health Care
18 Authority for the purpose of investigating whether any Medicaid
19 recipient may have committed the crime of Medicaid fraud.

20 D. Records obtained by the Attorney General pursuant to this
21 section shall be classified as confidential information and shall
22 not be subject to the Oklahoma Open Records Act or to outside review
23 or release by any individual except, if authorized by the Attorney
24

1 General, in relation to legal, administrative, or judicial
2 proceeding.

3 E. No person holding records provided for in subsection C of
4 this section may refuse to provide the Attorney General with access
5 to the records on the basis that release would violate any
6 recipient's right of privacy, any recipient's privilege against
7 disclosure or use, or any professional or other privilege or right.
8 The disclosure of patient information as required by this section
9 shall not subject any physician or other health services provider to
10 liability for breach of any confidential relationship between a
11 patient and a provider.

12 F. The Office of the Attorney General shall not expend any
13 monies from the Attorney General's Medicaid Fraud Revolving Fund,
14 created by Section 1003 of Title 56 of the Oklahoma Statutes, in
15 carrying out the provisions of this section.

16 SECTION 2. This act shall become effective November 1, 2014.

17
18 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 02/26/2014 -
19 DO PASS, As Amended.
20
21
22
23
24