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March 23, 2021

ENGROSSED HOUSE
BILL NO. 1690

By: Newton and Phillips of the
House

and

Jech of the Senate

An Act relating to public health; amending 63 O.S. 2011, Section 1-713.1, which relates to Federally Qualified Health Centers; removing the requirement that the board of directors be considered a public body and subject to the Oklahoma Open Meeting Act; removing penalties and reporting requirements for failure to comply with the Oklahoma Open Meeting Act; imposing duty on Oklahoma Health Care Authority with respect to certain payments for services; amending 25 O.S. 2011, Section 304, as last amended by Section 1, Chapter 3, O.S.L. 2020 (25 O.S. Supp. 2020, Section 304), which relates to the Oklahoma Open Meeting Act; modifying definition of public body; and declaring an emergency.

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-713.1, is amended to read as follows:

Section 1-713.1. A. The Legislature finds that:

1. As providers of health care to medically underserved populations, Federally Qualified Health Centers are extremely beneficial to the citizens of Oklahoma;

1 2. The primary source of funding for Federally Qualified Health
2 Centers is through grants of funds by the Bureau of Primary Health
3 Care (BPHC) under Section 330 of the Public Health Service Act as
4 amended by the Health Centers Consolidation Act of 1996;

5 3. The receipt of federal grants is dependent upon compliance
6 with federal statutes, regulations and policies regarding the
7 mission, programs, governance, management and financial
8 responsibilities of such entities; and

9 4. In addition to federal grant monies, Federally Qualified
10 Health Centers in Oklahoma receive additional monies through the
11 appropriation of state funds.

12 B. In an effort to maintain the presence of Federally Qualified
13 Health Centers in Oklahoma and minimize the possibility of
14 jeopardizing federal funding for such entities, all Federally
15 Qualified Health Centers in Oklahoma that receive grants under
16 Section 330 of the Public Health Service Act shall:

17 1. Remain in compliance at all times with the federal statutes,
18 regulations and ~~policies~~ policies governing their existence at 42
19 U.S.C. 254b, 42 CFR 51c.303, 51c.304 and 51c.305, and BPHC Policy
20 Information Notice 98-23; and

21 2. Adhere to bylaws adopted in compliance with the federal
22 statutes, regulations and ~~policies~~ policies including, but not
23 limited to, provisions regarding the composition, functions and
24

1 responsibilities of boards of directors of Federally Qualified
2 Health Centers.

3 ~~C. Further, the board of directors of a Federally Qualified~~
4 ~~Health Center shall be considered a public body for purposes of the~~
5 ~~Oklahoma Open Meeting Act and shall be subject to the provisions of~~
6 ~~that act, including criminal penalties provided therein for~~
7 ~~violations of that act.~~

8 ~~D.~~ Any Federally Qualified Health Center in Oklahoma that fails
9 to comply with federal statutes, regulations and policies governing
10 its existence shall be ineligible for state reimbursement for
11 uncompensated care. ~~Further, the entity shall be ineligible to~~
12 ~~receive such state reimbursement if the board of directors fails to~~
13 ~~remove, for cause, any board member convicted of a misdemeanor for~~
14 ~~violating the provisions of the Oklahoma Open Meeting Act, or any~~
15 ~~board member against whom a civil judgment is rendered relating to~~
16 ~~that member's service on the board.~~

17 ~~E.~~ D. The State Department of Health shall investigate reported
18 violations of this act and, notwithstanding any other provision,
19 shall enforce this act by not contracting to reimburse the
20 uncompensated care costs of any Federally Qualified Health Center
21 found to be in violation of the provisions of this act. The
22 Department shall further report any violations of federal statutes,
23 regulations and policies related to this act to the Bureau of
24 Primary Health Care or other appropriate federal funding agency, ~~and~~

1 ~~shall report violations of the Oklahoma Open Meeting Act to the~~
2 ~~district attorney in the jurisdiction where the entity is located.~~

3 ~~F. E.~~ In order to ensure that Federally Qualified Health
4 Centers in Oklahoma remain eligible to receive state reimbursement
5 for uncompensated care under the provisions of this act, the State
6 Board of Health shall adopt rules, as it deems necessary and
7 appropriate, requiring board members of such entities to receive
8 board member training and establishing certification for entities to
9 provide such training.

10 F. The Oklahoma Health Care Authority shall, at all times,
11 ensure that Federally Qualified Health Centers receive, at a
12 minimum, payment for services in accordance with Section 1396a(bb)
13 of Title 42 of the United States Code.

14 SECTION 2. AMENDATORY 25 O.S. 2011, Section 304, as last
15 amended by Section 1, Chapter 3, O.S.L. 2020 (25 O.S. Supp. 2020,
16 Section 304), is amended to read as follows:

17 Section 304. As used in the Oklahoma Open Meeting Act:

18 1. "Public body" means the governing bodies of all
19 municipalities located within this state, boards of county
20 commissioners of the counties in this state, boards of public and
21 higher education in this state and all boards, bureaus, commissions,
22 agencies, trusteeships, authorities, councils, committees, public
23 trusts or any entity created by a public trust, including any
24 committee or subcommittee composed of any of the members of a public

1 trust or other legal entity receiving funds from the Rural Economic
2 Action Plan Fund as authorized by Section 2007 of Title 62 of the
3 Oklahoma Statutes, task forces or study groups in this state
4 supported in whole or in part by public funds or entrusted with the
5 expending of public funds, or administering public property, and
6 shall include all committees or subcommittees of any public body.
7 Public body shall not include the state judiciary, the Council on
8 Judicial Complaints when conducting, discussing, or deliberating any
9 matter relating to a complaint received or filed with the Council,
10 the Legislature, or administrative staffs of public bodies,
11 including, but not limited to, faculty meetings and athletic staff
12 meetings of institutions of higher education when those staffs are
13 not meeting with the public body, or entry-year assistance
14 committees. Furthermore, public body shall not include the
15 multidisciplinary teams provided for in Section 1-9-102 of Title 10A
16 of the Oklahoma Statutes and subsection C of Section 1-502.2 of
17 Title 63 of the Oklahoma Statutes or any school board meeting for
18 the sole purpose of considering recommendations of a
19 multidisciplinary team and deciding the placement of any child who
20 is the subject of the recommendations. Furthermore, public body
21 shall not include meetings conducted by stewards designated by the
22 Oklahoma Horse Racing Commission pursuant to Section 203.4 of Title
23 3A of the Oklahoma Statutes when the stewards are officiating at
24 races or otherwise enforcing rules of the Commission. Furthermore,

1 public body shall not include the board of directors of a Federally
2 Qualified Health Center;

3 2. "Meeting" means the conduct of business of a public body by
4 a majority of its members being personally together or, as
5 authorized by Section 307.1 of this title, together pursuant to a
6 videoconference. Meeting shall not include informal gatherings of a
7 majority of the members of the public body when no business of the
8 public body is discussed;

9 3. "Regularly scheduled meeting" means a meeting at which the
10 regular business of the public body is conducted;

11 4. "Special meeting" means any meeting of a public body other
12 than a regularly scheduled meeting or emergency meeting;

13 5. "Emergency meeting" means any meeting called for the purpose
14 of dealing with an emergency. For purposes of the Oklahoma Open
15 Meeting Act, an emergency is defined as a situation involving injury
16 to persons or injury and damage to public or personal property or
17 immediate financial loss when the time requirements for public
18 notice of a special meeting would make such procedure impractical
19 and increase the likelihood of injury or damage or immediate
20 financial loss;

21 6. "Continued or reconvened meeting" means a meeting which is
22 assembled for the purpose of finishing business appearing on an
23 agenda of a previous meeting. For the purposes of the Oklahoma Open
24 Meeting Act, only matters on the agenda of the previous meeting at

1 which the announcement of the continuance is made may be discussed
2 at a continued or reconvened meeting;

3 7. "Videoconference" means a conference among members of a
4 public body remote from one another who are linked by interactive
5 telecommunication devices or technology and/or technology permitting
6 both visual and auditory communication between and among members of
7 the public body and/or between and among members of the public body
8 and members of the public. During any videoconference, both the
9 visual and auditory communications functions shall attempt to be
10 utilized; and

11 8. "Teleconference" means a conference among members of a
12 public body remote from one another who are linked by
13 telecommunication devices and/or technology permitting auditory
14 communication between and among members of the public body and/or
15 between and among members of the public body and members of the
16 public.

17 SECTION 3. It being immediately necessary for the preservation
18 of the public peace, health or safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

21 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
22 March 23, 2021 - DO PASS
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