

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 1504

By: Sneed of the House

and

7                               **Bullard** of the Senate

8  
9                               COMMITTEE SUBSTITUTE

10           An Act relating to health insurance; amending 36 O.S.  
11           2021, Section 3624, which relates to assignability of  
12           policies; updating statutory reference; amending 36  
13           O.S. 2021, Section 6055, which relates to insurance  
14           policies; modifying entities subject to certain  
15           policies; requiring compensation of certain entities  
16           in certain situations; creating liability for damages  
17           in certain cases; providing for certain  
18           administrative fines; providing for an opportunity  
19           for hearing; directing administrative fees to certain  
20           funds; creating certain policyholder rights; updating  
21           statutory references; and providing an effective  
22           date.

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

24           SECTION 1.           AMENDATORY           36 O.S. 2021, Section 3624, is  
amended to read as follows:

Section 3624. Except as provided in ~~subsection D of~~ Section  
6055 of this title, a policy may be assignable or not assignable, as  
provided by its terms. Subject to its terms relating to

1 assignability, any life or accident and health policy, whether  
2 heretofore or hereafter issued, under the terms of which the  
3 beneficiary may be changed upon the sole request of the insured, may  
4 be assigned either by pledge or transfer of title, by an assignment  
5 executed by the insured alone and delivered to the insurer, whether  
6 or not the pledgee or assignee is the insurer. Any such assignment  
7 shall entitle the insurer to deal with the assignee as the owner or  
8 pledgee of the policy in accordance with the terms of the  
9 assignment, until the insurer has received at its home office  
10 written notice of termination of the assignment or pledge, or  
11 written notice by or on behalf of some other person claiming some  
12 interest in the policy in conflict with the assignment.

13 SECTION 2. AMENDATORY 36 O.S. 2021, Section 6055, is  
14 amended to read as follows:

15 Section 6055. A. Under any accident and health insurance  
16 policy, hereafter renewed or issued for delivery from out of  
17 Oklahoma or in Oklahoma by any insurer and covering an Oklahoma  
18 risk, the services and procedures may be performed by any  
19 practitioner selected by the insured, or the parent or guardian of  
20 the insured if the insured is a minor, if the services and  
21 procedures fall within the licensed scope of practice of the  
22 practitioner providing the same.

23 B. An accident and health insurance policy may:  
24

1        1. Exclude or limit coverage for a particular illness, disease,  
2 injury or condition; but, except for such exclusions or limits,  
3 shall not exclude or limit particular services or procedures that  
4 can be provided for the diagnosis and treatment of a covered  
5 illness, disease, injury or condition, if such exclusion or  
6 limitation has the effect of discriminating against a particular  
7 class of practitioner. However, such services and procedures, in  
8 order to be a covered medical expense, must:

- 9            a. be medically necessary,  
10           b. be of proven efficacy, and  
11           c. fall within the licensed scope of practice of the  
12           practitioner providing same; and

13        2. Provide for the application of deductibles and copayment  
14 provisions, when equally applied to all covered charges for services  
15 and procedures that can be provided by any practitioner for the  
16 diagnosis and treatment of a covered illness, disease, injury or  
17 condition.

18        C. 1. Paragraph 2 of subsection B of this section shall not be  
19 construed to prohibit differences in cost-sharing provisions such as  
20 deductibles and copayment provisions between practitioners,  
21 hospitals ~~and~~, ambulatory surgical centers, home care agencies, or  
22 other health care providers or facilities that are licensed or  
23 certified by the state who are participating preferred provider  
24 organization providers and practitioners, hospitals ~~and~~, ambulatory

1 surgical centers, home care agencies, or other health care providers  
2 or facilities that are licensed or certified by the state who are  
3 not participating in the preferred provider organization, subject to  
4 the following limitations:

5 a. the amount of any annual deductible per covered person  
6 or per family for treatment in a hospital or  
7 ambulatory surgical center that is not a preferred  
8 provider shall not exceed three times the amount of a  
9 corresponding annual deductible for treatment in a  
10 hospital or ambulatory surgical center that is a  
11 preferred provider,

12 b. if the policy has no deductible for treatment in a  
13 preferred provider hospital or ambulatory surgical  
14 center, the deductible for treatment in a hospital or  
15 ambulatory surgical center that is not a preferred  
16 provider shall not exceed One Thousand Dollars  
17 (\$1,000.00) per covered-person visit,

18 c. the amount of any annual deductible per covered person  
19 or per family treatment, other than inpatient  
20 treatment, by a practitioner that is not a preferred  
21 practitioner shall not exceed three times the amount  
22 of a corresponding annual deductible for treatment,  
23 other than inpatient treatment, by a preferred  
24 practitioner,

1 d. if the policy has no deductible for treatment by a  
2 preferred practitioner, the annual deductible for  
3 treatment received from a practitioner that is not a  
4 preferred practitioner shall not exceed Five Hundred  
5 Dollars (\$500.00) per covered person, and

6 e. the percentage amount of any coinsurance to be paid by  
7 an insured to a practitioner, hospital or ambulatory  
8 surgical center that is not a preferred provider shall  
9 not exceed by more than thirty (30) percentage points  
10 the percentage amount of any coinsurance payment to be  
11 paid to a preferred provider.

12 2. The Commissioner has discretion to approve a cost-sharing  
13 arrangement which does not satisfy the limitations imposed by this  
14 subsection if the Commissioner finds that such cost-sharing  
15 arrangement will provide a reduction in premium costs.

16 D. 1. A practitioner, hospital ~~or~~, ambulatory surgical center,  
17 home care agency, or other health care provider or facility that is  
18 licensed or certified by the state that is not a preferred provider  
19 shall disclose to the insured, in writing, that the insured may be  
20 responsible for:

- 21 a. higher coinsurance and deductibles, and  
22 b. practitioner, hospital or ambulatory surgical center  
23 charges which exceed the allowable charges of a  
24 preferred provider, and

1           c. a good-faith estimate of the total cost to the  
2           insured.

3           2. When a referral is made to a nonparticipating hospital or  
4 ambulatory surgical center, the referring practitioner must disclose  
5 in writing to the insured, any ownership interest in the  
6 nonparticipating hospital or ambulatory surgical center.

7           E. Upon submission of a claim by a practitioner, hospital, home  
8 care agency, ~~or~~ ambulatory surgical center, or other health care  
9 provider or facility that is licensed or certified by the state to  
10 an insurer on a uniform health care claim form adopted by the  
11 Insurance Commissioner pursuant to Section 6581 of this title, the  
12 insurer shall provide a timely explanation of benefits to the  
13 practitioner, hospital, home care agency, ~~or~~ ambulatory surgical  
14 center, or other health care provider or facility that is licensed  
15 or certified by the state regardless of the network participation  
16 status of such person or entity.

17           F. Benefits available under an accident and health insurance  
18 policy, at the option of the insured, shall be assignable to a  
19 practitioner, hospital, home care agency ~~or~~, ambulatory surgical  
20 center, or other health care provider or facility that is licensed  
21 or certified by the state who has provided services and procedures  
22 which are covered under the policy. A practitioner, hospital, home  
23 care agency ~~or~~, ambulatory surgical center, or other health care  
24 provider or facility that is licensed or certified by the state

1 shall be compensated directly by an insurer for services and  
2 procedures which have been provided when the following conditions  
3 are met:

4 1. Benefits available under a policy have been assigned in  
5 writing by an insured to the practitioner, hospital, home care  
6 agency ~~or~~, ambulatory surgical center, or other health care provider  
7 or facility that is licensed or certified by the state;

8 2. A copy of the assignment has been provided by the  
9 practitioner, hospital, home care agency ~~or~~, ambulatory surgical  
10 center, or other health care provider or facility that is licensed  
11 or certified by the state to the insurer;

12 3. A claim has been submitted by the practitioner, hospital,  
13 home care agency, ~~or~~ ambulatory surgical center, or other health  
14 care provider or facility that is licensed or certified by the state  
15 to the insurer on a uniform health insurance claim form adopted by  
16 the Insurance Commissioner pursuant to Section 6581 of this title;  
17 and

18 4. A copy of the claim ~~has~~ and the estimate required in  
19 subparagraph c of paragraph 1 of subsection D of this section have  
20 been provided by the practitioner, hospital, home care agency ~~or~~,  
21 ambulatory surgical center, or other health care provider or  
22 facility that is licensed or certified by the state to the insured.

23 G. The provisions of subsection F of this section shall not  
24 apply to:

1        1. Any preferred provider organization (PPO), as defined by  
2 generally accepted industry standards, that contracts with  
3 practitioners that agree to accept the reimbursement available under  
4 the PPO agreement as payment in full and agree not to balance bill  
5 the insured; or

6        2. Any statewide provider network which:

- 7            a. provides that a practitioner, hospital, home care  
8            agency ~~or~~, ambulatory surgical center, or other health  
9            care provider or facility that is licensed or  
10           certified by the state who joins the provider network  
11           shall be compensated directly by the insurer,  
12           b. does not have any terms or conditions which have the  
13           effect of discriminating against a particular class of  
14           practitioner,  
15           c. allows any practitioner, hospital, home care agency,  
16           ~~or~~ ambulatory surgical center, or other health care  
17           provider or facility that is licensed or certified by  
18           the state, except a practitioner who has a prior  
19           felony conviction, to become a network provider if  
20           ~~said~~ the hospital or practitioner is willing to comply  
21           with the terms and conditions of a standard network  
22           provider contract, and  
23           d. contracts with practitioners that agree to accept the  
24           reimbursement available under the network agreement as



1 payment in full and agree not to balance bill the  
2 insured.

3 The provisions of this section shall not be deemed to prohibit a  
4 policyholder from assigning benefits available pursuant to an  
5 accident and health insurance policy, provided that the benefits of  
6 such policy include out-of-network provisions and are being assigned  
7 to an out-of-network practitioner, hospital, home care agency,  
8 ambulatory surgical center, or other health care provider or  
9 facility that is licensed or certified by the state. The  
10 assignability of an accident and health insurance policy related to  
11 out-of-network care shall only be subject to the terms and  
12 conditions specified in subsection F of this section.

13 H. A nonparticipating practitioner, hospital or ambulatory  
14 surgical center may request from an insurer and the insurer shall  
15 supply a good-faith estimate of the allowable fee for a procedure to  
16 be performed upon an insured based upon information regarding the  
17 anticipated medical needs of the insured provided to the insurer by  
18 the nonparticipating practitioner.

19 I. A practitioner shall be equally compensated for covered  
20 services and procedures provided to an insured on the basis of  
21 charges prevailing in the same geographical area or in similar sized  
22 communities for similar services and procedures provided to  
23 similarly ill or injured persons regardless of the branch of the  
24 healing arts to which the practitioner may belong, if:

1        1. The practitioner does not authorize or permit false and  
2 fraudulent advertising regarding the services and procedures  
3 provided by the practitioner; and

4        2. The practitioner does not aid or abet the insured to violate  
5 the terms of the policy.

6        J. Nothing in the Health Care Freedom of Choice Act shall  
7 prohibit an insurer from establishing a preferred provider  
8 organization and a standard participating provider contract  
9 therefor, specifying the terms and conditions, including, but not  
10 limited to, provider qualifications, and alternative levels or  
11 methods of payment that must be met by a practitioner selected by  
12 the insurer as a participating preferred provider organization  
13 provider.

14        K. A preferred provider organization, in executing a contract,  
15 shall not, by the terms and conditions of the contract or internal  
16 protocol, discriminate within its network of practitioners with  
17 respect to participation and reimbursement as it relates to any  
18 practitioner who is acting within the scope of the practitioner's  
19 license under the law solely on the basis of such license.

20        L. Decisions by an insurer or a preferred provider organization  
21 (PPO) to authorize or deny coverage for an emergency service shall  
22 be based on the patient presenting symptoms arising from any injury,  
23 illness, or condition manifesting itself by acute symptoms of  
24 sufficient severity, including severe pain, such that a reasonable

1 and prudent layperson could expect the absence of medical attention  
2 to result in serious:

- 3 1. Jeopardy to the health of the patient;
- 4 2. Impairment of bodily function; or
- 5 3. Dysfunction of any bodily organ or part.

6 M. An insurer or preferred provider organization (PPO) shall  
7 not deny an otherwise covered emergency service based solely upon  
8 lack of notification to the insurer or PPO.

9 N. An insurer or a preferred provider organization (PPO) shall  
10 compensate a provider for patient screening, evaluation, and  
11 examination services that are reasonably calculated to assist the  
12 provider in determining whether the condition of the patient  
13 requires emergency service. If the provider determines that the  
14 patient does not require emergency service, coverage for services  
15 rendered subsequent to that determination shall be governed by the  
16 policy or PPO contract.

17 O. Nothing in ~~this act~~ the Health Care Freedom of Choice Act  
18 shall be construed as prohibiting an insurer, preferred provider  
19 organization or other network from determining the adequacy of the  
20 size of its network.

21 P. An insurer or a preferred provider organization shall not  
22 unilaterally remove a provider from the network solely because the  
23 provider informs an enrollee of the full range of physicians and  
24 providers available to the enrollee, including out-of-network

1 providers. Nothing in ~~this act~~ the Health Care Freedom of Choice  
2 Act prohibits any insurer from allowing a contract to expire by its  
3 own terms or negotiating a new contract with the provider at the end  
4 of the contract term. A provider agreement shall not, as a  
5 condition of the agreement, prohibit, penalize, terminate, or  
6 otherwise restrict a preferred provider from referring to an out-of-  
7 network provider; provided, the insured signs an acknowledgment of  
8 referral that the insured may be responsible for:

9 1. Higher coinsurance and deductibles; and

10 2. Charges which exceed the allowable charges of a preferred  
11 provider.

12 SECTION 3. This act shall become effective November 1, 2023.

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14 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 02/22/2023 - DO  
15 PASS, As Amended and Coauthored.  
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