An Act

ENROLLED HOUSE
BILL NO. 2842

By: Steele, Balkman, Cox, Denney, DeWitt, Terrill, Worthen, Armes, Bingman, Cooksey, Dank, DePue, Duncan, Kern, Martin and Perry of the House

and

Adelson of the Senate

An Act relating to public health and safety; creating the Oklahoma Medicaid Reform Act of 2006; authorizing implementation of phase one by certain date; requiring evaluation and report; stating purpose of act; authorizing the Health Care Authority to submit any waivers to the Legislature for approval before implementation; providing powers, duties, and responsibilities of the Oklahoma Health Care Authority under the program; providing for a grievance resolution process; establishing cost-sharing methods; providing for electronic records for Medicaid providers; establishing an electronic prescribing pilot program; authorizing the Oklahoma Health Care Authority to establish an incentivizing reimbursement program for nursing homes; authorizing the Oklahoma Health Care Authority to provide programs for disease management and alternatives for long-term care; authorizing a program to encourage the proper use of emergency rooms; establishing a physician hotline; setting payment error rate; extending benefits to certain persons; requiring hospitals to establish discount programs for certain persons; establishing the Task Force on Nursing Home Insurance Access; specifying membership and duties; requiring certain information to be provided to certain persons regarding coverage; amending Section 7, Chapter 374, O.S.L. 2002, as amended by Section 3, Chapter 412, O.S.L. 2003 (63 O.S. Supp. 2005, Section 3240.5), which relates to the Community Hospitals Authority; increasing membership of authority; amending 56 O.S. 2001, Section 1010.1, as last amended by Section 1, Chapter 136, O.S.L. 2004 (56 O.S. Supp. 2005, Section 1010.1), which relates to health care coverage; expanding scope of program under certain circumstances; extending assistance to certain employers; amending 63 O.S. 2001, Section 1-707, which relates to rules and standards; expanding duties of the Oklahoma Hospital Advisory Council; amending 63 O.S. 2001, Section 5009.2, which relates to membership of the Advisory Committee on Medical Care for Public Assistance Recipients; adding pediatric member; repealing 63 O.S. 2001, Section 1-

702b, as last amended by Section 1 of Enrolled Housed Bill No. 2465 of the 2nd Session of the 50th Oklahoma Legislature, which relates to new health care facilities; repealing Section 2, Chapter 431, O.S.L. 2004 (63 O.S. Supp. 2005, Section 1-702d), as last amended by Section 2 of Enrolled Housed Bill No. 2465 of the 2nd Session of the 50th Oklahoma Legislature, which relates to the Uncompensated Care Equalization Committee; providing for codification; providing an effective date; and declaring an emergency.

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 1011.1 of Title 56, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 10 of this act shall be known and cited as the "Oklahoma Medicaid Reform Act of 2006".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1011.2 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Health Care Authority is authorized to seek waivers and/or other federal authorizations to create a statewide program to provide for a more efficient and effective service delivery system that enhances quality of care and client outcomes in the Oklahoma Medicaid Program.

B. The Oklahoma Health Care Authority shall develop and submit for approval, applications for waivers of applicable federal laws and regulations as necessary to implement the provisions of the Oklahoma Medicaid Reform Act of 2006. Copies of all waivers submitted to and approved by the United States Centers for Medicare and Medicaid Services under this section shall be provided to the Legislature within ten (10) days of their approval. The Oklahoma Health Care Authority shall submit a plan containing a recommended timeline for implementation of any waivers and budgetary projections of the effect of the Oklahoma Medicaid Reform Act of 2006. This implementation plan shall be submitted to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

C. By July 1, 2008, phase one of this act shall be implemented within a contiguous area of the state with rural and urban characteristics. The Oklahoma Health Care Authority shall contract for an independent evaluation and report findings of this phase of the act to the Governor and the Legislature. After an independent evaluation and report to the Governor and Legislature, if it is determined that the evaluation establishes improved access to health care, improved health care outcomes, and improved cost efficiencies, it is the intent of the Legislature that components of the act be phased in statewide by the year 2013.

D. Upon this evaluation and determination of improvement by the Governor and Legislature, the Oklahoma Health Care Authority shall

negotiate a plan for statewide expansion of the act from the Centers for Medicare and Medicaid Services.

E. The purpose of the Oklahoma Medicaid Reform Act of 2006 is to:

1. Provide Medicaid consumers who are younger than sixty-five (65) years of age and considered insurable more options in the selection of a health care plan that meets the needs of consumers and allows consumers to exercise greater control over the medical care that consumers receive. For purposes of this section "insurable" means that the cost of enrolling an individual in a private plan is equal to or less than the cost to the state of the individual remaining in the current Medicaid program;

2. Stabilize Medicaid expenditures in the act areas compared to Medicaid expenditures in the test areas for the three (3) years preceding implementation of the act, while ensuring:

a. consumer education and choice,

b. access to medically necessary services,

c. coordination of preventative, acute, and long-term care services, and

d. reductions in unnecessary service utilization;

3. Provide an opportunity to evaluate the progress of statewide implementation of the Oklahoma Medicaid Reform Act of 2006 as a replacement for the current Medicaid system; and

4. Introduce competition as a factor that lowers the cost of the act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1011.3 of Title 56, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Health Care Authority shall have the following powers, duties, and responsibilities with respect to the development of the program established in Section 2 of this act:

1. The consumer education component shall include the following:

a. to develop a choice counseling system to ensure that the choice counseling process and related material are designed to provide consumers an understanding of both public and private health insurance options provided by this act including incentives through face-to-face interaction, by telephone, and in writing, and through other forms of relevant media,

b. to develop a system to ensure that there is record of recipient acknowledgment that choice counseling has been provided, and

c. to develop a choice counseling system that promotes health literacy and includes an educational component

that is intended to promote proper utilization of the health care system;

2. The consumer choice component shall include the following:

a. to develop a system to enable insurable Medicaid consumers to access commercial health insurance policies,

b. to develop an actuarially sound cost per Medicaid consumer within different age groups and other relevant categories including health status to provide medically necessary services which may be separated to cover comprehensive care, enhanced services, and catastrophic care. This cost would be converted into a credit or instrument of value for the Medicaid consumer to purchase qualified health insurance policies,

c. in conjunction with the Oklahoma Insurance Department, to determine benefits and standards for commercial insurers accessed by Medicaid consumers,

d. to allow consumers to purchase health care coverage through an employer-sponsored health insurance plan instead of through a qualified health insurance plan. This provision shall be known as the employee choice option. A recipient who chooses the Medicaid employee choice option shall have an opportunity for a specified period of time, as authorized by the Centers for Medicare and Medicaid Services, to select and enroll in a qualified health insurance plan,

e. to develop a process for Medicaid consumers to select commercial health insurance options, the Oklahoma Health Care Authority shall develop a plan to implement a personal health account system as an enhanced benefit. Monies deposited into a personal health account shall only be used by the recipient to defray health-care-related costs including, but not limited to, copayments, noncovered benefits, and wellness initiatives. The Health Care Authority shall promulgate rules guiding personal health account transactions; and

3. To provide a grievance-resolution process for Medicaid consumers enrolled in a health plan. This process shall include a mechanism for an expedited review of a grievance if the life of a Medicaid recipient is in imminent and emergent jeopardy.

4. To provide a grievance-resolution process for health care providers employed by or contracted with a health plan to settle disputes among the provider and the health plan or the provider and the Oklahoma Health Care Authority.

5. By July 1, 2008, the Oklahoma Health Care Authority shall institute cost-sharing methods and/or benefit modifications within federal limitations to eligible persons whose family income is between one hundred thirty-three percent (133%) and one hundred eighty-five percent (185%) of the federal poverty level. The

benefits shall be no less than the state-sponsored health care coverage through the state premium assistance program authorized in subsection D of Section 1010.1 of Title 56 of the Oklahoma Statutes.

6. Notwithstanding any other provision of this section, coverage, cost sharing, and any other component of employer-sponsored health insurance shall be governed by applicable state and federal laws.

7. The Oklahoma Health Care Authority shall develop a system to ensure that the implementation of the provisions of this act do not negatively affect the ability of American Indian or Alaska Native beneficiaries to access services at Indian Health Service facilities, tribally operated health facilities and Urban Indian Health Programs.

8. The Oklahoma Health Care Authority shall develop a system to ensure that the implementation of the provisions of this act do not negatively affect the reimbursement structure between the Oklahoma Health Care Authority and the Indian Health Service facilities, tribally operated health facilities and urban health programs.

9. The Oklahoma Health Care Authority shall develop mechanisms through intergovernmental transfers which will allow tribally operated facilities that elect to provide services to beneficiaries other than American Indian or Alaska Native beneficiaries to receive reimbursement for such services.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1011.4 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Health Care Authority shall conduct a needs analysis to design a database of clinical utilization information or electronic medical records for Medicaid providers. This system shall be web-based and allow providers to review on a real-time basis the utilization of Medicaid services including, but not limited to, office visits, inpatient and outpatient hospitalizations, laboratory and pathology services, radiological and other imaging services, dental care, and patterns of dispensing prescription drugs in order to coordinate care and identify potential fraud and abuse. The Oklahoma Health Care Authority shall evaluate and report findings to the Governor and the Legislature by January 1, 2008.

B. The Oklahoma Health Care Authority shall design and implement an electronic prescribing pilot program. The pilot program may include, but is not limited to, providing hardware, software, and connectivity for a limited number of prescribers. The prescribers who participate may be given vouchers for hardware, software, and connectivity, or the Oklahoma Health Care Authority may use direct vendor contracts. The Oklahoma Health Care Authority shall:

1. Within the messaging capabilities of the electronic prescribing system alert prescribers when patients are prescribed multiple drugs that may be duplicative, contraindicated, or have other potential problems related either to other medications or health status of the patient;

2. Track spending trends for prescription drugs and deviation from best-practice guidelines and notify prescribers who consistently fall outside those guidelines, comparing those prescribers who are using the electronic prescribing system to those who are not in order to determine whether the pilot program should be expanded; and

3. In conjunction with disease management programs or other targeted interventions, alert prescribers to patients who fail to refill ongoing or maintenance medication prescriptions in a timely fashion.

C. A report of this pilot program shall be submitted to the Governor and the Legislature no later than eighteen (18) months after the start of the program.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1011.5 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Health Care Authority in cooperation with the State Department of Health, a statewide organization of the elderly, representatives of the Health and Human Services Interagency Task Force on long-term care, and representatives of both statewide associations of nursing facility operators shall develop an incentive reimbursement rate plan for nursing facilities that shall include, but may not be limited to, the following:

1. Quality of life indicators that relate to total management initiatives;

2. Quality of care indicators;

3. Family and resident satisfaction survey results;

4. State Department of Health survey results;

5. Employee satisfaction survey results;

6. CNA training and education requirements;

7. Patient acuity level;

8. Direct care expenditures pursuant to subparagraph e of paragraph 2 of subsection I of Section 1-1925.2 of Title 63 of the Oklahoma Statutes; and

9. Other incentives which include, without limitation, participation in quality initiative activities performed and/or recommended by the Oklahoma Foundation for Medical Quality in capital improvements, in-service education of direct staff, and procurement of reasonable amounts of liability insurance.

B. The Oklahoma Health Care Authority shall negotiate with the Centers for Medicare and Medicaid Services to include the authority to base provider reimbursement rates for nursing facilities on the criteria specified in subsection A of this section.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1011.6 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Health Care Authority shall develop a formal program for disease management to improve the quality of care and reduce the cost of care. The Authority is authorized to contract for the development of the program if contracting is more cost effective to the state than developing the program internally. The disease management program may utilize pharmacy services including, but not limited to, Medication Management Therapy. The program may include, but not be limited to, asthma, diabetes, chronic obstructive pulmonary disease, renal disease and/or congestive heart failure.

The disease management program shall consist of:

1. Claims data analysis;

2. Population selection and targeting;

3. Intervention through educational tools for patients and providers and treatment guidelines for physicians;

4. Quality measurements of program structure, performance indicators, and outcome measures; and

5. Reporting of outcome measure data.

B. The Oklahoma Health Care Authority shall evaluate and report findings to the Governor and the Legislature no later than eighteen (18) months after the start of the program.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1011.7 of Title 56, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Health Care Authority shall develop and administer a plan for the implementation of alternatives for long-term care. The plan shall include, but not be limited to:

1. The continued development and funding of community-based options throughout the State of Oklahoma;

2. The establishment of a cash and counseling program that focuses on increasing personal responsibility, efficiency in utilization, and consumer satisfaction;

3. The establishment of a program providing for state incentives to Oklahoma citizens for long-term care planning; and

4. Stronger private/public partnerships at the community level in order to address unmet patient needs.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1011.8 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Health Care Authority shall continue to develop and administer a program that will encourage the timely and

appropriate use of primary care services in lieu of emergency room utilization. The program shall include, but not be limited to, the implementation of:

1. Educational strategies;

2. Technology-based monitoring; and

3. Co-payment structures as provided for in Section 3 of this act.

B. The Oklahoma Health Care Authority may develop a pilot program utilizing state-licensed health care professionals to perform educational interventions with consumers who highly utilize emergency room services or to perform other services to reduce unnecessary emergency room visits.

C. The Oklahoma Health Care Authority shall develop and implement a telephone information health line pilot program under which physicians are available by telephone twenty-four (24) hours a day to answer medical questions and provide health information for the Medicaid population. If the Health Care Authority determines that the pilot program reduces unnecessary emergency room visits and the pilot program demonstrates a net cost-savings, the Health Care Authority shall expand the program into a statewide initiative.

D. The Oklahoma Health Care Authority shall evaluate and report findings to the Governor and the Legislature by January 1, 2008.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1011.9 of Title 56, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Health Care Authority shall establish a method to deter abuse and reduce errors in Medicaid billing, payment and eligibility through the use of technology and accountability measures for the Authority, providers and consumers. The Authority shall achieve a payment error rate measurement of no greater than five percent (5%) by fiscal year 2009. The Oklahoma Health Care Authority shall evaluate and report findings to the Governor and the Legislature.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1011.10 of Title 63, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Health Care Authority shall apply for any necessary waiver to extend health care benefits to persons up to the age of twenty-three (23) years if the person is enrolled as a full-time student in an accredited university or college in the State of Oklahoma.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-723.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Each hospital in this state shall establish a discount program for hospital charges for qualified self-pay patients who have household incomes of up to three hundred percent (300%) of the federal poverty guidelines. This discount program shall not be

required for patients who are eligible for or enrolled in private or public insurance plans providing hospital coverage, including indemnity plans.

B. While a hospital may set uniform prices for its services, products, and fees, qualified self-pay patients shall be eligible for minimum discounts from the hospital so that the hospital charge after the discount shall not exceed the greater of the amount Medicare would pay for the same services, or the cost of services as determined by multiplying the hospital's whole cost-to-charge ratio by the billed charges.

C. It shall be the responsibility of the patient to establish their eligibility for the discount.

D. The provisions of this section do not apply to procedures that are not medically necessary as determined by the treating physician.

E. In a collection action brought by the hospital, a patient may assert the provisions of this section as a defense to the action. To be available as a defense, the patient must establish eligibility for the discount by proving:

1. The household income of the patient is below three hundred percent (300%) of the federal poverty guidelines; and

2. The patient is not eligible or enrolled in private or public insurance plans providing hospital coverage.

If the elements are established, the hospital is limited in its collection efforts to the greater of the amount Medicare would pay for the same services, or the cost of services as determined by multiplying the hospital's whole cost-to-charge ratio by the billed charges.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-821.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created, to continue until February 1, 2007, the "Task Force on Nursing Home Insurance Access".

B. The Task Force shall consist of sixteen (16) members:

1. Three members shall be appointed by the Speaker of the Oklahoma House of Representatives as follows:

a. one member who represents an intermediate care facility for the mentally retarded (ICF/MR),

b. one member who represents a nursing home facility, and

c. one member of the Oklahoma House of Representatives appointed by the Speaker of the House of Representatives;

2. Three members shall be appointed by the President Pro Tempore of the State Senate as follows:

a. one member who is a practicing attorney in the area of elder or health care law,

b. one member who represents a statewide elder justice organization, and

c. one member of the State Senate appointed by the President Pro Tempore of the State Senate;

3. Four members shall be appointed by the Governor as follows:

a. one member who is a practicing attorney in insurance and medical malpractice law,

b. one member who has experience in health economics,

c. one member who represents the insurance industry, and

d. one member who represents a nursing home facility;

4. The Director of the Department of Human Services, or a designee;

5. The Director of the State Department of Health, or a designee;

6. The President of the Oklahoma Association of Health Care Providers, or a designee;

7. The Commissioner of the Oklahoma Insurance Department, or a designee;

8. The President of the Oklahoma Association of Home Care, or a designee; and

9. The Director of the Oklahoma Health Care Authority, or a designee.

C. The appointed member from the Oklahoma House of Representatives and the appointed member from the State Senate shall serve as cochairs of the Task Force. The cochairs shall convene the first meeting of the Task Force. The members of the Task Force shall elect any other officers during the first meeting and upon a vacancy in any office. The Task Force shall meet as often as necessary.

D. Appointments to the Task Force shall be made by July 1, 2006.

E. A majority of the members of the Task Force shall constitute a quorum. A majority of the members present at a meeting may act for the Task Force.

F. Nonlegislative members of the Task Force shall be reimbursed by their respective agencies for necessary travel expenses incurred in the performance of duties pursuant to the provisions of the State Travel Reimbursement Act. Legislative members of the Task Force shall be reimbursed for necessary travel expenses incurred in the performance of duties in accordance with the provisions of Section 456 of Title 74 of the Oklahoma Statutes.

G. Administrative support for the Task Force including, but not limited to, personnel necessary to ensure the proper performance of the duties and responsibilities of the Task Force, shall be provided by the Oklahoma Health Care Authority to be supplemented, if necessary, by the state agencies involved in the Task Force, and the staff of the House of Representatives and the State Senate. All participating state agencies shall provide for any administrative support requested by the Task Force.

H. The Task Force shall develop recommendations for providing greater access to liability insurance coverage for nursing home facilities including, but not limited to, improved enforcement of nursing home quality standards, affordable premiums, risk management, alternative forms of insurance, and strengthened regulation of the insurance industry.

I. The Task Force shall examine the feasibility of transferring the administration of community-based services from the Department of Human Services to the Oklahoma Health Care Authority.

J. The Task Force shall publish a report of findings and recommendations by February 1, 2007, including recommendations for any resulting legislation.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4513 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. All entities providing health insurance or health care coverage to individuals residing within the state shall provide such information on coverage and benefits as may be required by any health care provider, health plan, health plan sponsor or their agent regarding the coverage provided by the entity to any patient or beneficiary of the medical service provider, health plan, or health plan sponsor.

B. Any health care provider, health plan, health plan sponsor or their agent is authorized to transmit the simple human identifiers in ANSI X.12 270 inquiries including the name, gender, date of birth, and member number or policyholder identification number if required by the health plan of a patient to any and all entities licensed or registered to provide health insurance or health care coverage to individuals residing within the state to establish the coverage in force for a patient presenting or about to present a claim.

C. Any party named in subsection A of this section shall have a cause of action for injunctive relief and costs including, but not limited to, attorney fees for the enforcement of this section against any noncompliant health plan.

SECTION 14. AMENDATORY Section 7, Chapter 374, O.S.L. 2002, as amended by Section 3, Chapter 412, O.S.L. 2003 (63 O.S. Supp. 2005, Section 3240.5), is amended to read as follows:

Section 3240.5 A. There is hereby created the Community Hospitals Authority, an agency of the State of Oklahoma, a body corporate and politic, with powers of government and with the

authority to exercise the rights, privileges and functions as specified in the Community Hospitals Authority Act.

B. The Authority shall be composed as follows:

1. The presidents of Oklahoma State University and the University of Oklahoma or their designees;

2. One member appointed by the Governor who shall be a citizen and resident of a metropolitan area meeting the criteria provided in paragraph 4 of Section 3240.2 of this title who has no direct affiliation with a participating health care system or a university listed in paragraph 1 of this subsection;

3. One member appointed by the Speaker of the House of Representatives;

4. One member appointed by the President Pro Tempore of the State Senate;

5. The Director of the Oklahoma Health Care Authority; and

6. One representative from each of the three participating health care systems, as defined in Section 3240.2 of this title, who shall each serve terms of three (3) years and may be reappointed;

7. One representative from the Oklahoma Department of Commerce designated as the Community Action Agency for the largest county in terms of population included within the geographic boundaries of the Community Hospitals Authority;

8. One representative from the chamber of commerce, or any other organization of business entities, from the largest metropolitan area in terms of population included within the geographic boundaries of the Community Hospitals Authority;

9. One representative appointed by the existing members of the Authority from a city-county health department; and

10. One representative appointed by the existing members of the Authority from a charitable or philanthropic foundation with assets in excess of Five Hundred Million Dollars ($500,000,000.00) that has demonstrated a commitment to supporting the missions of the Community Hospitals Authority.

C. The members appointed by the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the State Senate shall serve terms of three (3) years and may be reappointed. Successors shall be appointed for terms of three (3) years.

D. Each member of the Authority, prior to appointment, shall be a resident of the state and a registered voter.

E. The members of the Authority shall serve without compensation but may be reimbursed for all actual and necessary travel expenses incurred in the performance of their duties in accordance with the provisions of the State Travel Reimbursement Act.

F. A quorum of the Authority shall be a majority of the voting members. The members of the Authority shall annually elect a chair from among its membership.

SECTION 15. AMENDATORY 56 O.S. 2001, Section 1010.1, as last amended by Section 1, Chapter 136, O.S.L. 2004 (56 O.S. Supp. 2005, Section 1010.1), is amended to read as follows:

Section 1010.1 A. Sections 1010.1 through 1010.7 of this title shall be known and may be cited as the "Oklahoma Medicaid Program Reform Act of 2003".

B. Recognizing that many Oklahomans do not have health care benefits or health care coverage, that many small businesses cannot afford to provide health care benefits to their employees, and that, under federal law, barriers exist to providing Medicaid benefits to the uninsured, the Oklahoma Legislature hereby establishes provisions to lower the number of uninsured, assist businesses in their ability to afford health care benefits and coverage for their employees, and eliminate barriers to providing health coverage to eligible enrollees under federal law.

C. The Oklahoma Health Care Authority shall provide coverage under the state Medicaid program to children under the age of eighteen (18) years whose family incomes do not exceed one hundred eighty-five percent (185%) of the federal poverty level.

D. 1. The Authority is hereby directed to apply for a waiver or waivers to the Centers for Medicaid and Medicare Services (CMS) that will accomplish the purposes outlined in subsection B of this section. The Authority is further directed to negotiate with CMS to include in such waiver authority provisions to:

a. increase access to health care for Oklahomans,

b. reform the Oklahoma Medicaid Program to promote personal responsibility for health care services and appropriate utilization of health care benefits through the use of public-private cost sharing,

c. enable small employers, and/or employed, uninsured adults with or without children to purchase employer-sponsored, state-approved private, or state-sponsored health care coverage through a state premium assistance payment plan. <u>If by January 1, 2008, the Employer/Employee Partnership for Insurance Coverage Premium Assistance Program is not consuming more than seventy-five percent (75%) of its dedicated source of funding, then the program will be expanded to include parents of children eligible for Medicaid</u>, and

d. develop flexible health care benefit packages based upon patient need and cost.

2. The Authority may phase in any waiver or waivers it receives based upon available funding.

3. The Authority is hereby authorized to develop and implement a ~~pilot~~ premium assistance plan to assist small businesses and/or

their eligible employees to purchase employer-sponsored insurance or "buy-in" to a state-sponsored benefit plan.

4. During the implementation of the premium assistance program, the Authority is hereby authorized to seek from the Centers for Medicare and Medicaid Services any waivers necessary to accomplish an expansion of the premium assistance program to include employers with fifty employees or less up to any level supported by existing funding resources.

E. 1. There is hereby created in the State Treasury a revolving fund to be designated the "Health Employee and Economy Improvement Act (HEEIA) Revolving Fund".

2. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of:

a. all monies received by the Authority pursuant to this section and otherwise specified or authorized by law,

b. monies received by the Authority due to federal financial participation pursuant to Title XIX of the Social Security Act, and

c. interest attributable to investment of money in the fund.

3. All monies accruing to the credit of the fund are hereby appropriated and shall be budgeted and expended by the Authority to implement a premium assistance plan.

SECTION 16. AMENDATORY 63 O.S. 2001, Section 1-707, is amended to read as follows:

Section 1-707. A. The State Board of Health, upon the recommendation of the State Commissioner of Health and with the advice of the Oklahoma Hospital Advisory Council, shall promulgate rules and standards as it deems to be in the public interest for hospitals, on the following:

1. Construction plans and location, including fees not to exceed Two Thousand Dollars ($2,000.00) for submission or resubmission of architectural and building plans, and procedures to ensure the timely review of such plans by the State Department of Health. Said assessed fee shall be used solely for the purposes of processing approval of construction plans and location by the State Department of Health;

2. Physical plant and facilities;

3. Fire protection and safety;

4. Food service;

5. Reports and records;

6. Staffing and personal service;

7. Surgical facilities and equipment;

8. Maternity facilities and equipment;

9. Control of communicable disease;

10. Sanitation;

11. Laboratory services;

12. Nursing facilities and equipment; and

13. Other items as may be deemed necessary to carry out the purposes of this article.

B. 1. The State Board of Health, upon the recommendation of the State Commissioner of Health and with the advice of the Oklahoma Hospital Advisory Council and the State Board of Pharmacy, shall promulgate rules and standards as it deems to be in the public interest with respect to the storage and dispensing of drugs and medications for hospital patients.

2. The State Board of Pharmacy shall be empowered to inspect drug facilities in licensed hospitals and shall report violations of applicable statutes and rules to the State Department of Health for action and reply.

C. 1. The Commissioner shall appoint an Oklahoma Hospital Advisory Council to advise the Board, the Commissioner and the Department regarding hospital operations and to recommend actions to improve patient care.

2. The Advisory Council shall have the duty and authority to:

a. review and approve in its advisory capacity rules and standards for hospital licensure,

b. evaluate, review and make recommendations regarding Department licensure activities, provided however, the Advisory Council shall not make recommendations regarding scope of practice for any health care providers or practitioners regulated pursuant to Title 59 of the Oklahoma Statutes, and

c. recommend and approve:

(1) quality indicators and data submission requirements for hospitals, <u>to include:</u>

<u>(a) Agency for Healthcare Research and Quality (AHRQ) Patient Safety Indicators Available as part of the standard inpatient discharge data set, and</u>

<u>(b) for acute care intensive care unit patients, ventilator-associated pneumonia and device-related blood stream infections,</u> and

(2) the indicators and data to be used by the Department to monitor compliance with licensure requirements, and

d. to publish an annual report of hospital performance to include the facility specific quality indicators required by this section.

D. 1. The Advisory Council shall be composed of nine (9) members appointed by the Commissioner with the advice and consent of the Board. The membership of the Advisory Council shall be as follows:

a. two members shall be hospital administrators of licensed hospitals,

b. two members shall be licensed physicians or practitioners who have current privileges to provide services in hospitals,

c. two members shall be hospital employees, and

d. three members shall be citizens representing the public who:

(1) are not hospital employees,

(2) do not hold hospital staff appointments, and

(3) are not members of hospital governing boards.

2. a. Advisory Council members shall be appointed for three-year terms except the initial terms after November 1, 1999, of one hospital administrator, one licensed physician or practitioner, one hospital employee, and one public member shall be one (1) year. The initial terms after the effective date of this act of one hospital administrator, one licensed physician or practitioner, one hospital employee, and one public member shall be two (2) years. The initial terms of all other members shall be three (3) years. After initial appointments to the Council, members shall be appointed to three-year terms.

b. Members of the Advisory Council may be removed by the Commissioner for cause.

E. The Advisory Council shall meet on a quarterly basis and shall annually elect from among its members a chairperson. Members of the Council shall serve without compensation but shall be reimbursed by the Department for travel expenses related to their service as authorized by the State Travel Reimbursement Act.

SECTION 17. AMENDATORY 63 O.S. 2001, Section 5009.2, is amended to read as follows:

Section 5009.2 A. The Advisory Committee on Medical Care for Public Assistance Recipients, created by the Oklahoma Health Care Authority, pursuant to 42 Code of Federal Regulations, Section 431.12, for the purpose of advising the Authority about health and medical care services, shall include among its membership the following:

1. Board-certified physicians and other representatives of the health professions who are familiar with the medical needs of low-income population groups and with the resources available and required for their care. The Advisory Committee shall, at all times, include at least one physician from each of the six classes of physicians listed in Section 725.2 of Title 59 of the Oklahoma Statutes; provided, however, such physicians shall be participating providers in the State Medicaid Plan;

2. Members of consumers' groups, including, but not limited to:

a. Medicaid recipients, and

b. representatives from each of the following consumer organizations which represent the interests of:

(1) people who are economically disadvantaged,

(2) children,

(3) the elderly,

(4) people with mental illness,

(5) people who are developmentally disabled, and

(6) people with alcohol or substance abuse problems; ~~and~~

3. The Director of the Department of Human Services; and

4. A member approved and appointed by the Oklahoma Academy of Pediatrics who shall:

a. monitor provider relations with the Oklahoma Health Care Authority, and

b. create a forum to address grievances.

B. The Advisory Committee shall meet bimonthly to review and make recommendations related to:

1. Policy development and program administration;

2. Policy changes proposed by the Authority prior to consideration of such changes by the Authority;

3. Financial concerns related to the Authority and the administration of the programs under the Authority; and

4. Other pertinent information related to the management and operation of the Authority and the delivery of health and medical care services.

C. 1. The Administrator of the Authority shall provide such staff support and independent technical assistance as needed by the Advisory Committee to enable the Advisory Committee to make effective recommendations.

2. The Advisory Committee shall elect from among its members a chair and a vice-chair. A majority of the members of the Advisory Committee shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of the Advisory Committee.

3. Members shall not receive any compensation for their services, but shall be reimbursed pursuant to the provisions of the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

D. The Authority shall give due consideration to the comments and recommendations of the Advisory Committee in the Authority's deliberations on policies, administration, management and operation of the Authority.

SECTION 18. REPEALER 63 O.S. 2001, Section 1-702b, as last amended by Section 1 of Enrolled Housed Bill No. 2465 of the 2nd Session of the 50th Oklahoma Legislature, is hereby repealed.

SECTION 19. REPEALER Section 2, Chapter 431, O.S.L. 2004 (63 O.S. Supp. 2005, Section 1-702d), as last amended by Section 2 of Enrolled Housed Bill No. 2465 of the 2nd Session of the 50th Oklahoma Legislature, is hereby repealed.

SECTION 20. Section 11 of this act shall become effective July 1, 2007.

SECTION 21. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 25th day of May, 2006.

Presiding Officer of the House of Representatives

Passed the Senate the 25th day of May, 2006.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 26

day of May, **20** 06,

at 1:30, **o'clock** P **M.**

By: Blair Gaddis

Approved by the Governor of the State of Oklahoma the 9 **day of** June **20** 06, **at** 10:02, **o'clock** A **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 9th

day of June, **20** 06,

at 10:47, **o'clock** A **M.**

By: M. Susan Savage