

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 1248

By: David

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5  
6 AS INTRODUCED

7 An Act relating to health agency administration;  
8 amending 43A O.S. 2011, Section 2-201, which relates  
9 to the Commissioner of Mental Health and Substance  
10 Abuse Services; removing certain authorities from  
11 Board of Mental Health and Substance Abuse Services;  
12 providing certain authorities to the Governor;  
13 requiring Senate confirmation; amending 63 O.S. 2011,  
14 Section 1-104, which relates to the State Board of  
15 Health; removing certain power of the Board;  
16 authorizing the Governor to appoint and fix the  
17 salary of the State Commissioner of Health; requiring  
18 Senate confirmation; providing for removal of  
19 Commissioner; amending 63 O.S. 2011, Section 1-106,  
20 which relates to the powers and duties of the  
21 Commissioner; removing certain powers from the Board;  
22 stating that the Director shall serve at the pleasure  
23 of the Governor; providing certain powers to the  
24 Governor; requiring Senate confirmation; amending 63  
O.S. 2011, Section 5007, which relates to the  
Oklahoma Health Care Authority Board; deleting  
obsolete language; removing certain power and duty of  
the Board; providing certain power to the Governor;  
specifying duties of Director; providing criteria for  
appointment; stating that the Director shall serve at  
the pleasure of the Governor; providing that  
appointment is subject to Senate confirmation;  
stating that the Director's salary shall be set by  
the Governor; requiring cooperation with certain  
federal agencies; requiring compilation and  
presentation of certain annual report; specifying  
contents of report; providing for codification;  
providing an effective date; and declaring an  
emergency.

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

2 SECTION 1. AMENDATORY 43A O.S. 2011, Section 2-201, is  
3 amended to read as follows:

4 Section 2-201. A. A Commissioner of Mental Health and  
5 Substance Abuse Services shall be appointed by the ~~Board of Mental~~  
6 ~~Health and Substance Abuse Services~~ Governor and subject to  
7 confirmation by the Senate. The Commissioner may only be removed by  
8 the ~~Board~~ Governor for cause. The Commissioner shall meet at least  
9 one of the following qualifications:

10 1. Possession of a Doctor of Medicine Degree and a license to  
11 practice medicine in this state;

12 2. Possession of an Osteopathic Medicine Degree and a license  
13 to practice medicine in this state;

14 3. Possession of a Doctor of Public Health Degree;

15 4. Possession of a Doctoral Degree in Psychology and a license  
16 to practice psychology in this state;

17 5. Possession of a Master of Public Health Degree and a minimum  
18 of five (5) years of supervisory experience in the administration of  
19 health services; or

20 6. Possession of a Master of Arts or Master's Degree in  
21 Business Administration, Social Science or a related field and a  
22 minimum of five (5) years of supervisory experience in the  
23 administration of health services.

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1 B. The salary of the Commissioner shall be fixed by the ~~Board~~  
2 Governor.

3 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-104, is  
4 amended to read as follows:

5 Section 1-104. A. The State Board of Health shall elect  
6 annually from its membership a President, Vice President and  
7 Secretary. The Board shall adopt rules for its government, and may  
8 adopt an official seal for the State Department of Health. It shall  
9 hold such meetings as it deems necessary. Each member of the Board  
10 shall be paid travel expenses, as provided in the State Travel  
11 Reimbursement Act.

12 B. The Board shall have the following powers and duties:

13 1. ~~Appoint and fix the compensation of a State Commissioner of~~  
14 ~~Health;~~

15 ~~2.~~ Adopt such rules and standards as it deems necessary to  
16 carry out any of the provisions of this Code;

17 ~~3.~~ 2. Accept and disburse grants, allotments, gifts, devises,  
18 bequests, funds, appropriations, and other property made or offered  
19 to it; and

20 ~~4.~~ 3. Establish such divisions, sections, bureaus, offices, and  
21 positions in the State Department of Health as it deems necessary to  
22 carry out the provisions of this Code.

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1 SECTION 3. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1-104a of Title 63, unless there  
3 is created a duplication in numbering, reads as follows:

4 The State Commissioner of Health shall be appointed by the  
5 Governor and subject to confirmation by the Senate. The salary of  
6 the Commissioner shall be fixed by the Governor. The Commissioner  
7 may only be removed by the Governor for cause.

8 SECTION 4. AMENDATORY 63 O.S. 2011, Section 1-106, is  
9 amended to read as follows:

10 Section 1-106. A. The State Commissioner of Health shall serve  
11 at the pleasure of the ~~State Board of Health~~ Governor, and shall  
12 have skill and experience in public health duties and sanitary  
13 sciences and shall meet at least one of the following  
14 qualifications:

15 1. Possession of a Doctor of Medicine Degree and a license to  
16 practice medicine in this state;

17 2. Possession of an Osteopathic Medicine Degree and a license  
18 to practice medicine in this state;

19 3. Possession of a Doctoral degree in Public Health or Public  
20 Health Administration; or

21 4. Possession of a Master of Science Degree and a minimum of  
22 five (5) years of supervisory experience in the administration of  
23 health services.

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1 B. The Commissioner shall have the following powers and duties,  
2 unless otherwise directed by the ~~State Board of Health~~ Governor:

3 1. Have general supervision of the health of the citizens of  
4 the state; make investigations, inquiries and studies concerning the  
5 causes of disease and injury, and especially of epidemics, and the  
6 causes of mortality, and the effects of localities, employment,  
7 conditions and circumstances on the public health; investigate  
8 conditions as to health, sanitation and safety of schools, prisons,  
9 public institutions, mines, public conveyances, camps, places of  
10 group abode, and all buildings and places of public resort, and  
11 recommend, prescribe and enforce such measures of health, sanitation  
12 and safety for them as the Commissioner deems advisable; take such  
13 measures as deemed necessary by the Commissioner to control or  
14 suppress, or to prevent the occurrence or spread of, any  
15 communicable, contagious or infectious disease, and provide for the  
16 segregation and isolation of persons having or suspected of having  
17 any such disease; designate places of quarantine or isolation;  
18 advise state and local governments on matters pertaining to health,  
19 sanitation and safety; and abate any nuisance affecting injuriously  
20 the health of the public or any community. Any health information  
21 or data acquired by the Commissioner from any public agency, which  
22 information or data is otherwise confidential by state or federal  
23 law, shall remain confidential notwithstanding the acquisition of  
24 this information by the Commissioner.

1           2. Be the executive officer and supervise the activities of the  
2 State Department of Health, and act for the Department in all  
3 matters except as may be otherwise provided in this Code; administer  
4 oaths at any hearing or investigation conducted pursuant to this  
5 Code; and enforce rules and standards adopted by the State Board of  
6 Health. All rules adopted by the State Board of Health are subject  
7 to the terms and conditions of the Administrative Procedures Act.

8           3. Appoint an Assistant State Commissioner of Health and fix  
9 the qualifications, duties and compensation of the Assistant State  
10 Commissioner of Health; and employ, appoint and contract with, and  
11 fix the qualifications, duties and compensation of, such other  
12 assistants, doctors, engineers, attorneys, sanitarians, nurses,  
13 laboratory personnel, administrative, clerical and technical help,  
14 investigators, aides and other personnel and help, either on a full-  
15 time, part-time, fee or contractual basis, as shall be deemed by the  
16 Commissioner necessary, expedient, convenient or appropriate to the  
17 performance or carrying out of any of the purposes, objectives or  
18 provisions of this Code, or to assist the Commissioner in the  
19 performance of official duties and functions.

20           4. Cause investigations, inquiries and inspections to be made,  
21 and hold hearings and issue orders pursuant to the provisions of the  
22 Administrative Procedures Act, to enforce and make effective the  
23 provisions of this Code, and all rules and standards adopted by the  
24 State Board of Health pursuant to law and the Commissioner or the

1 representative of the Commissioner shall have the right of access to  
2 any premises for such purpose at any reasonable time, upon  
3 presentation of identification.

4 5. Authorize persons in the State Department of Health to  
5 conduct investigations, inquiries and hearings, and to perform other  
6 acts that the Commissioner is authorized or required to conduct or  
7 perform personally.

8 6. Except as otherwise provided by law, all civil and criminal  
9 proceedings under this Code shall be initiated and prosecuted by the  
10 district attorney where the violation takes place.

11 7. Issue subpoenas for the attendance of witnesses and the  
12 production of books and records at any hearing to be conducted by  
13 the Commissioner or the State Board of Health; and if a person  
14 disobeys any such subpoena, or refuses to give evidence before, or  
15 to allow books and records to be examined by, the Commissioner or  
16 the Board after such person is directed to do so, the Commissioner  
17 may file a contempt proceeding in the district court of the county  
18 in which the premises involved are situated, or, if no premises are  
19 involved, of the county in which such person resides or has a  
20 principal place of business, and a judge of such court, after a  
21 trial de novo, may punish the offending person for contempt.

22 8. Unless otherwise required by the terms of a federal grant,  
23 sell, exchange or otherwise dispose of personal property that has  
24 been acquired by the State Department of Health, or any of its

1 components, when such property becomes obsolete or is no longer  
2 needed; any money derived therefrom shall be deposited in the Public  
3 Health Special Fund.

4 9. Sell films, educational materials, biological products and  
5 other items produced by the State Department of Health; and all  
6 proceeds therefrom shall be deposited in the Public Health Special  
7 Fund.

8 10. Revoke or cancel, or suspend for any period up to one (1)  
9 year, any license or permit issued under or pursuant to this Code,  
10 or by the Commissioner, when the Commissioner determines that ground  
11 therefor as prescribed by this Code exists, or that the holder of  
12 such license or permit has violated any law, or any of the  
13 provisions of this Code, or any rules or standards of the State  
14 Board of Health filed with the Secretary of State, but the  
15 Commissioner shall first afford the holder an opportunity to show  
16 cause why the license or permit should not be revoked, canceled or  
17 suspended, notice of such opportunity to be given by certified  
18 United States Mail to the holder of the license or permit at the  
19 last-known address of such holder.

20 11. Accept, use, disburse and administer grants, allotments,  
21 gifts, devises, bequests, appropriations and other monies and  
22 property offered or given to the State Department of Health, or any  
23 component or agency thereof, by any agency of the federal  
24 government, or any corporation or individual.



1           12. Be the official agency of the State of Oklahoma in all  
2 matters relating to public health which require or authorize  
3 cooperation of the State of Oklahoma with the federal government or  
4 any agency thereof; coordinate the activities of the State  
5 Department of Health with those of the federal government or any  
6 department or agency thereof, and with other states, on matters  
7 pertaining to public health, and enter into agreements for such  
8 purpose, and may accept, use, disburse and administer, for the  
9 office of the Commissioner or for the State Department of Health,  
10 for any purpose designated and on the terms and conditions thereof,  
11 grants of money, personnel and property from the federal government  
12 or any department or agency thereof, or from any state or state  
13 agency, or from any other source, to promote and carry on in this  
14 state any program relating to the public health or the control of  
15 disease, and enter into agreements for such purposes.

16           13. The State Commissioner of Health may appoint commissioned  
17 peace officers, certified by the Council on Law Enforcement  
18 Education and Training, to investigate violations of the Public  
19 Health Code and to provide security to Department facilities.

20           SECTION 5.           AMENDATORY           63 O.S. 2011, Section 5007, is  
21 amended to read as follows:

22           Section 5007. A. There is hereby created the Oklahoma Health  
23 Care Authority Board. On and after July 1, 1994, as the terms of  
24 the initially appointed members expire, the Board shall be composed

1 of seven appointed members who shall serve for terms of four (4)  
2 years and shall be appointed as follows:

3 1. Two members shall be appointed by the President Pro Tempore  
4 of the Senate;

5 2. Two members shall be appointed by the Speaker of the House  
6 of Representatives; and

7 3. Three members shall be appointed by the Governor. Two of  
8 the members appointed by the Governor shall be consumers.

9 B. Members appointed pursuant to this paragraph, with the  
10 exception of the consumer members, shall include persons having  
11 experience in medical care, health care services, health care  
12 delivery, health care finance, health insurance and managed health  
13 care. Consumer members shall have no financial or professional  
14 interest in medical care, health care services, health care  
15 delivery, health finance, health insurance or managed care. In  
16 making the appointments, the appointing authority shall also give  
17 consideration to urban, rural, gender and minority representation.

18 C. ~~1. As the terms of office of members appointed before July~~  
19 ~~1, 1995, expire, appointments made on or after July 1, 1995, shall~~  
20 ~~be subject to the following requirements:~~

21 ~~a. One member appointed by the Governor shall be a~~  
22 ~~resident of the First Congressional District. The~~  
23 ~~term of office of the member appointed by the Governor~~

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1 ~~and serving as of the effective date of this act shall~~  
2 ~~expire on September 1, 2003;~~

3 ~~b. One member appointed by the President Pro Tempore of~~  
4 ~~the Senate shall be a resident of the Second~~  
5 ~~Congressional District and a consumer. The term of~~  
6 ~~office of the member appointed by the President Pro~~  
7 ~~Tempore of the Senate and serving as of the effective~~  
8 ~~date of this act shall expire on September 1, 1999;~~

9 ~~c. One member appointed by the President Pro Tempore of~~  
10 ~~the Senate shall be a resident of the Third~~  
11 ~~Congressional District. The term of office of the~~  
12 ~~member appointed by the President Pro Tempore of the~~  
13 ~~Senate and serving as of the effective date of this~~  
14 ~~act shall expire on September 1, 2004;~~

15 ~~d. One member appointed by the Speaker of the House of~~  
16 ~~Representatives shall be a resident of the Fourth~~  
17 ~~Congressional District. The term of office of the~~  
18 ~~member appointed by the Speaker of the House of~~  
19 ~~Representatives and serving as of the effective date~~  
20 ~~of this act shall expire on September 1, 2001;~~

21 ~~e. One member appointed by the Speaker of the House of~~  
22 ~~Representatives shall be a resident of the Fifth~~  
23 ~~Congressional District and a consumer. The term of~~  
24 ~~office of the member appointed by the Speaker of the~~

1 ~~House of Representatives and serving as of the~~  
2 ~~effective date of this act shall expire on September~~  
3 ~~1, 1998;~~

4 ~~f. One member appointed by the Governor shall be a~~  
5 ~~resident of the Sixth Congressional District and a~~  
6 ~~consumer. The term of office of the member appointed~~  
7 ~~by the Governor and serving as of the effective date~~  
8 ~~of this act shall expire on September 1, 2000; and~~

9 ~~g. The second consumer member appointed by the Governor~~  
10 ~~shall be appointed at large. The term of office of~~  
11 ~~the member appointed by the Governor and serving as of~~  
12 ~~the effective date of this act shall expire on~~  
13 ~~September 1, 2002.~~

14 ~~2. Appointments made subsequent to the effective date of this~~  
15 ~~act shall not be restricted to any particular congressional~~  
16 ~~district. Appointments made after July 1 of the year in which a~~  
17 ~~redrawing of a congressional district becomes effective shall be~~  
18 ~~from the state at large. However, no appointments may be made after~~  
19 ~~July 1 of the year in which such modification becomes effective if~~  
20 ~~such appointment would result in more than two members serving from~~  
21 ~~the same modified district.~~

22 ~~D. The terms of the members serving on the Board as of the~~  
23 ~~effective date of this act July 1, 1998, shall expire on September 1~~  
24 ~~of the year in which the respective terms expire. Thereafter, as~~

1 new terms begin, members shall be appointed to four-year staggered  
2 terms which shall expire on September 1. Should a member serve less  
3 than a four-year term, the term of office of the member subsequently  
4 appointed shall be for the remainder of the four-year term.

5 ~~E. On and after July 1, 1994, any subsequently appointed~~  
6 ~~administrator of the Authority shall be appointed by the Board. The~~  
7 ~~administrator shall have the training and experience necessary for~~  
8 ~~the administration of the Authority, as determined by the Board,~~  
9 ~~including, but not limited to, prior experience in the~~  
10 ~~administration of managed health care. The administrator shall~~  
11 ~~serve at the pleasure of the Board.~~

12 ~~F.~~ D. The Board shall have the power and duty to:

13 1. Establish the policies of the Oklahoma Health Care  
14 Authority;

15 2. ~~Appoint the Administrator of the Authority;~~

16 3. Adopt and promulgate rules as necessary and appropriate to  
17 carry out the duties and responsibilities of the Authority. The  
18 Board shall be the rulemaking body for the Authority; and

19 4. 3. Adopt, publish and submit by January 1 of each year to  
20 the Governor, the President Pro Tempore of the Senate, and the  
21 Speaker of the House of Representatives appropriate administrative  
22 policies and the business plan for that year. All actions governed  
23 by said administrative policies and annual business plan shall be  
24 examined annually in an independent audit.

1       ~~G.~~ E. 1. A vacancy in a position shall be filled in the same  
2 manner as provided in subsection A of this section.

3       2. A majority of the members of the Board shall constitute a  
4 quorum for the transaction of business and for taking any official  
5 action. Official action of the Board must have a favorable vote by  
6 a majority of the members present.

7       3. Members appointed pursuant to subsection A of this section  
8 shall serve without compensation but shall be reimbursed for  
9 expenses incurred in the performance of their duties in accordance  
10 with the State Travel Reimbursement Act.

11       ~~H.~~ F. The Board and the Authority shall act in accordance with  
12 the provisions of the Oklahoma Open Meeting Act, the Oklahoma Open  
13 Records Act and the Administrative Procedures Act.

14       SECTION 6.       NEW LAW       A new section of law to be codified  
15 in the Oklahoma Statutes as Section 5031 of Title 63, unless there  
16 is created a duplication in numbering, reads as follows:

17       A. The Governor shall have the power and duty to appoint a  
18 Director who shall serve as executive and administrative officer of  
19 the Oklahoma Health Care Authority. The Director shall be appointed  
20 wholly on the basis of ability, training and experience qualifying  
21 him or her for health care administration. The Director shall  
22 serve, subject to the confirmation of the Senate, at the pleasure of  
23 the Governor. The salary of the Director shall be fixed by the  
24 Governor.

1 B. The Director shall cooperate with the federal Department of  
2 Health and Human Services, or other similar agencies created by  
3 Congress, in any reasonable manner as may be necessary to qualify  
4 for federal aid to states in providing assistance to needy persons  
5 in conformity with the provisions of the laws of this state,  
6 including the making of reports in the form and containing  
7 information as a federal agency may from time to time require, and  
8 shall comply with any other similar federal agency requirements  
9 necessary to ensure the correctness and verification of the reports.

10 C. The Director shall compile an annual report, not later than  
11 four (4) months after the close of each fiscal year. The report  
12 shall be presented to the Governor, the President Pro Tempore of the  
13 Senate and the Speaker of the House of Representatives. Annual  
14 reports shall provide information about the operations and programs  
15 administered by the Authority and shall include, but shall not be  
16 limited to:

17 1. Statistical information regarding services provided and the  
18 number of persons served by Authority programs;

19 2. Financial data, including a reasonable amount of detailed  
20 information regarding revenues and expenditures, and a breakdown and  
21 comparison of the Authority budget with actual expenditures;

22 3. Status of the workforce and productivity of the Authority;

23 4. Information about Authority efforts to ensure program  
24 accountability and service delivery quality and integrity;

1 5. Demographic data and trends and their anticipated impact on  
2 demand for services; and

3 6. Information regarding public and private institution-based  
4 services.

5 SECTION 7. This act shall become effective July 1, 2018.

6 SECTION 8. It being immediately necessary for the preservation  
7 of the public peace, health or 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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