

An Act

ENROLLED HOUSE
BILL NO. 2587

By: Roberts (Sean) and Lepak of
the House

and

Daniels and Bullard of the
Senate

An Act relating to health care; creating the Nondiscrimination in Health Care Coverage Act; stating legislative findings; defining terms; prohibiting agency development of or reliance on discriminatory measures in determining health care recommendations; requiring agency to post for public comment any new utilization management measure; requiring agency to consult with certain organizations; requiring agency to ensure stakeholder engagement and full transparency; listing certain requirements; providing for codification; and providing an effective date.

SUBJECT: Health care

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 2560 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Nondiscrimination in Health Care Coverage Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2561 of Title 63, unless there is created a duplication in numbering, reads as follows:

The Legislature finds and declares that:

1. Physical and mental disabilities, age or chronic illness should in no way diminish a person's right to life, human dignity and equal access to medical care;

2. Historically, persons with disabilities, advanced age or chronic illness have faced discrimination in the health care system, including the denial of access to life-sustaining care;

3. Such discrimination is inconsistent with our society's commitment to human dignity and the full inclusion of persons with disabilities throughout society;

4. Lack of access to appropriate health care can result in significant adverse health consequences for persons with disabilities, those with chronic illness, and those of advanced age, including loss of function, reduced quality of life or even death; and

5. Both public and private payors have a moral, legal and ethical obligation to make health care reimbursement decisions in a transparent fashion utilizing nondiscriminatory criteria.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2562 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in the Nondiscrimination in Health Care Coverage Act:

1. "Agency" shall include the state and all units of state government and shall not exclude any entity established under the constitution or laws of the state or established by any entity which was itself established under the constitution or laws of the state;

2. "Health care provider" means a person who is licensed, certified or otherwise authorized by the laws of this state to practice a health care or healing arts profession or who administers health care in the ordinary course of business;

3. "Health care service" means any phase of patient medical care, treatment or procedure, including, but not limited to, therapy, testing, diagnosis or prognosis, prescribing, dispensing or administering any device, drug or medication, surgery, or any other care or treatment rendered by health care providers;

4. "Utilization management" shall include step therapy, prior authorization restrictions and the use of formulary restrictions to restrict access to a drug or other health care service prescribed by a health care provider; and

5. "Self-advocacy organizations" means organizations run by persons with disabilities, the majority of whose board members and employees are themselves persons with disabilities.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2563 of Title 63, unless there is created a duplication in numbering, reads as follows:

An agency shall be prohibited from developing or employing a dollars-per-quality adjusted life year, or similar measure that discounts the value of a life because of an individual's disability, including age or chronic illness, as a threshold to establish what type of health care is cost-effective or recommended. An agency shall be prohibited from utilizing such adjusted life year, or similar measure, as a threshold to determine coverage, reimbursement, incentive programs or utilization management decisions, whether it comes from within the agency or from any third party.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2564 of Title 63, unless there is created a duplication in numbering, reads as follows:

Any agency proposing new utilization management measures shall post for public comment both the proposed measure and the rationale behind the proposed measure, including the availability of alternatives, analysis of potential impact on atypical patient populations and subgroups, estimate of the population likely to be impacted by the measure and a description of both internal and third-party value assessments utilized in internal deliberations on the measure.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2565 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Any agency making decisions on utilization management measures, coverage, reimbursement or incentive programs shall be required to consult with:

1. Organizations representing patients and people with disabilities, including both self-advocacy organizations and organizations representing patients, prior to proceeding on any measure likely to impact the relevant patient or disability community; and

2. Organizations representing patients and people that advocate for the rights of patients to obtain treatment without regard to the patients' quality of life and representatives of organizations that advocate for the rights of older persons to receive health care.

B. Any agency making decisions on utilization management measures, coverage, reimbursement or incentive programs shall ensure that a process is in place to ensure robust stakeholder engagement and full transparency surrounding the provision of any research and analysis relied upon for decision-making that would impact access to health care treatments and services by patient groups provided for in subsection A of this section, including:

1. Providing stakeholders with meaningful notice and opportunity to comment on the retention of any vendor providing research and analysis to the agency;

2. Subjecting research and analysis relied upon by an agency to meaningful notice and comment process;

3. Ensuring deliberation around the coverage or reimbursement for health care treatments and services occurs in open meetings;

4. Presenting and releasing any research and analysis relied upon for decision-making in public meetings or publicly released prior to deliberation;

5. Requiring full disclosure into funding sources and conflicts of interest of any third party providing research and analysis to the state;

6. Prohibiting sole-source contracts for research and analysis to ensure reliance on a range of evidence; and

7. Preparing an annual report assessing beneficiary access to health care treatments and services. The report shall assess the impact of any form of utilization management on access to care with a specific analysis of the impact on persons with disabilities, chronic illness and advanced age. The report shall be submitted to

the State Legislature, be posted on the state Medicaid website, and the agency shall provide an opportunity for public comment.

C. Any research and analysis relied upon for decision-making that would impact coverage and access to health care treatments and services shall measure outcomes prioritized by patients and persons with disabilities as required by this section, as well as consider meaningful differences in the characteristics, needs and preferences of patients and persons with disabilities.

SECTION 7. This act shall become effective November 1, 2020.

Passed the House of Representatives the 10th day of March, 2020.

Presiding Officer of the House
of Representatives

Passed the Senate the 15th day of May, 2020.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____

Approved by the Governor of the State of Oklahoma this _____
day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____