

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL 1719

6 By: Crain of the Senate

7 and

8 McCullough of the House

9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to health and mental health; creating
11 the Oklahoma Health Information and Privacy
12 Collaboration Advisory Board; specifying membership
13 and purpose of Board; amending 36 O.S. 2001, Section
14 6804, which relates to informed consent; modifying
15 language; specifying use of telemedicine; providing
16 for noncodification; and providing an effective date.

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

18 SECTION 1. NEW LAW A new section of law not to be
19 codified in the Oklahoma Statutes reads as follows:

20 A. There is hereby created the Oklahoma Health Information and
21 Privacy Collaboration Advisory Board.

22 B. Membership of the Board shall be determined by the President
23 Pro Tempore of the Senate and the Speaker of the House of
24 Representatives.

1 C. The purpose of the Board shall be to advise and oversee the
2 Oklahoma Health Information and Privacy Collaboration. The Board
3 shall report on the status of the Oklahoma Health Information and
4 Privacy Collaboration on an as-needed basis.

5 SECTION 2. AMENDATORY 36 O.S. 2001, Section 6804, is
6 amended to read as follows:

7 Section 6804. A. Prior to the delivery of health care via
8 telemedicine, the health care practitioner who is in physical
9 contact with the patient shall have the ultimate authority over the
10 care of the patient and shall obtain informed consent from the
11 patient. The informed consent procedure shall ensure that, at
12 least, all the following information is given to the patient:

13 1. A statement that the individual retains the option to
14 withhold or withdraw consent at any time without affecting the right
15 to future care or treatment or risking the loss or withdrawal of any
16 program benefits to which the individual would otherwise be
17 entitled;

18 2. A description of the potential risks, consequences, and
19 benefits of telemedicine;

20 3. A statement that all existing confidentiality protections
21 apply;

22 4. A statement that patient access to all medical information
23 transmitted during a telemedicine interaction is guaranteed, and
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1 that copies of this information are available at stated costs, which
2 shall not exceed the direct cost of providing the copies; and

3 5. A statement that dissemination to researchers or other
4 entities or persons external to the patient-practitioner
5 relationship of any patient-identifiable images or other patient-
6 identifiable information from the telemedicine interaction shall not
7 occur without the written consent of the patient.

8 B. The patient shall sign a written statement prior to the
9 delivery of health care via telemedicine indicating that the patient
10 understands the written information provided pursuant to subsection
11 A of this section and that this information has been discussed with
12 the health care practitioner or the practitioner's designee.

13 C. If the patient is a minor or is incapacitated or mentally
14 incompetent such that the patient is unable to give informed
15 consent, the consent provisions of this section shall apply to the
16 patient's representative. The consent provisions of this section
17 shall not apply in an emergency situation in which a patient is
18 unable to give informed consent and the patient's representative is
19 unavailable.

20 D. The failure of a health care practitioner to comply with the
21 provisions of this section shall constitute unprofessional conduct.

22 E. The written consent statement signed by the patient shall
23 become part of the patient's medical record.

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1 F. The consent provisions of this section shall not apply to
2 consultations among or between health care practitioners or to other
3 telemedicine interactions in which the patient is not directly
4 involved.

5 G. The consent provisions of this section shall not apply to
6 consultations among or between health care practitioners and inmates
7 in the custody of the Department of Corrections.

8 H. For purposes of the delivery of mental health care via
9 telemedicine, the use of telemedicine shall be considered a face-to-
10 face, physical contact and in-person encounter between the health
11 care provider and the patient, including the initial visit.

12 SECTION 3. This act shall become effective November 1, 2008.

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