

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 COMMITTEE SUBSTITUTE

4 FOR

5 SENATE BILL NO. 1567

6 By: Standridge

7 COMMITTEE SUBSTITUTE

8 An Act relating to health information; providing
9 short title; creating the Transparency in Disclosure
10 of Health Information Act; providing definitions;
11 requiring certain entities to publicize certain
12 statement; providing standards for statement;
13 providing certain limitation on disclosure of health
14 information by certain entities; providing certain
15 interpretation; providing certain remedies; providing
16 certain standing; providing for codification; and
17 providing an effective date.

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

19 SECTION 1. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 7100.8 of Title 63, unless there
21 is created a duplication in numbering, reads as follows:

22 A. This act shall be known and may be cited as the
23 "Transparency in Disclosure of Health Information Act".

24 B. As used in this act:

1. "Disclosure" means the release, transfer, provision of
access to or divulging in any manner of information outside the
entity holding the information;

1 2. "Health care operations" means any of the following
2 activities of the covered entity to the extent that the activities
3 are related to covered functions:

4 a. conducting quality assessment and improvement
5 activities, including outcomes evaluation and
6 development of clinical guidelines, provided that the
7 obtaining of generalizable knowledge is not the
8 primary purpose of any studies resulting from such
9 activities, patient safety activities, population-
10 based activities relating to improving health or
11 reducing health care costs, protocol development, case
12 management and care coordination, contacting of health
13 care providers and patients with information about
14 treatment alternatives and related functions that do
15 not include treatment,

16 b. reviewing the competence or qualifications of health
17 care professionals, evaluating practitioner and
18 provider performance, health plan performance,
19 conducting training programs in which students,
20 trainees or practitioners in areas of health care
21 learn under supervision to practice or improve their
22 skills as health care providers, training of non-
23 health care professionals, accreditation,
24 certification, licensing or credentialing activities,

- 1 c. except as prohibited under federal law, underwriting,
2 enrollment, premium rating and other activities
3 related to the creation, renewal or replacement of a
4 contract of health insurance or health benefits and
5 ceding, securing or placing a contract for reinsurance
6 of risk relating to claims for health care, including
7 stop-loss insurance and excess of loss insurance,
8 provided that the requirements of federal law are met,
9 if applicable,
- 10 d. conducting or arranging for medical review, legal
11 services and auditing functions, including fraud and
12 abuse detection and compliance programs,
- 13 e. business planning and development, such as conducting
14 cost-management and planning-related analyses related
15 to managing and operating the entity, including
16 formulary development and administration, development
17 or improvement of methods of payment or coverage
18 policies, and
- 19 f. business management and general administrative
20 activities of the entity, including, but not limited
21 to:
- 22 (1) management activities relating to implementation
23 of and compliance with the requirements of this
24 subchapter,

- 1 (2) customer service, including the provision of data
2 analyses for policy holders, plan sponsors or
3 other customers, provided that protected health
4 information is not disclosed to such policy
5 holder, plan sponsor or customer,
- 6 (3) resolution of internal grievances,
- 7 (4) the sale, transfer, merger or consolidation of
8 all or part of the covered entity with another
9 covered entity or an entity that following such
10 activity will become a covered entity and due
11 diligence related to such activity, and
- 12 (5) consistent with the applicable requirements of
13 federal law, creating de-identified health
14 information or a limited data set, and
15 fundraising for the benefit of the covered
16 entity;

17 3. "Health care provider" means a hospital, critical access
18 hospital, skilled nursing facility, comprehensive outpatient
19 rehabilitation facility, home health agency, hospice program or any
20 other person or organization who furnishes, bills, or is paid for
21 health care in the normal course of business;

22 4. "Health information" shall have the same meaning provided by
23 Section 7100.3 of Title 63 of the Oklahoma Statutes;

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1 5. "Health information organization" means any entity or
2 organization that provides data transmission services with respect
3 to protected health information to a covered entity and that
4 requires access on a routine basis to such protected health
5 information;

6 6. "Health plan" means:

- 7 a. a group health plan,
- 8 b. a health insurance issuer,
- 9 c. a health maintenance organization,
- 10 d. Parts A or B of Title XVIII of the Social Security
11 Act,
- 12 e. Title XIX of the Social Security Act,
- 13 f. The Voluntary Prescription Drug Benefit Program
14 pursuant to Part D of Title XVIII of the Social
15 Security Act,
- 16 g. an issuer of a Medicare supplemental policy, as
17 defined by 42 U.S.C. 1395ss(g)(1),
- 18 h. an issuer of a long-term care policy, excluding a
19 nursing home fixed indemnity policy,
- 20 i. an employee welfare benefit plan or any other
21 arrangement established or maintained for the purpose
22 of offering or providing benefits to the employees of
23 two or more employers,

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- 1 j. the health care program for uniformed services
2 pursuant Title 10 of the United States Code,
3 k. the veterans health care program pursuant to 38
4 U.S.C., Chapter 17,
5 l. any program provided by the Indian Health Care
6 Improvement Act, 25 U.S.C. 1601 et seq.,
7 m. an approved state child health plan under Title XXI of
8 the Social Security Act providing benefits and meeting
9 the requirements of 42 U.S.C. 1397,
10 n. the Medicare Advantage program pursuant to Part C of
11 Title XVIII of the Social Security Act,
12 o. a high risk pool that is a mechanism established
13 pursuant to state law to provide health insurance
14 coverage of comparable coverage to eligible
15 individuals, or
16 p. any other individual or group plan, or combination of
17 individual or group plans, that provides or pays for
18 the cost of medical care;

19 7. "Individual" means the person who is the subject of
20 protected health information;

21 8. "Payment" means the activities undertaken by health plan to
22 obtain premiums or to determine or fulfill its responsibility for
23 coverage and provision of benefits under the health plan or to
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1 obtain or provide reimbursement for the provision of health care;
2 and

3 9. "Treatment" means the provision, coordination or management
4 of health care and related services by one or more health care
5 providers, including the coordination or management of health care
6 by a health care provider with a third party, consultation between
7 health care providers relating to a patient, or the referral of a
8 patient for health care from one health care provider to another.

9 SECTION 2. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 7100.9 of Title 63, unless there
11 is created a duplication in numbering, reads as follows:

12 A. A health information organization shall make publicly
13 available a current and accurate statement of its information-
14 handling practices pertaining to the disclosure of health
15 information by the health information organization to a health plan.
16 Such statement shall include identification of:

17 1. Any health plan the health information organization
18 discloses health information to; and

19 2. The purposes for which the health information organization
20 discloses health information to a health plan, including whether
21 disclosures are made for one or any combination of payment,
22 treatment or health care operations purposes.

23 B. A health information organization that discloses health
24 information to a health plan for payment purposes shall limit the

1 disclosure of health information to the minimum necessary amount to
2 accomplish such purpose as provided by federal law.

3 C. Subject to the minimum necessary requirements set forth by
4 subsection B of this act, a health information organization that
5 discloses health information to a health plan shall only disclose
6 health information related to individuals who are members or insured
7 by the health plan.

8 D. A health information organization violating the provisions
9 of this act shall be deemed to engage in an unfair trade practice,
10 as defined by the Oklahoma Consumer Protection Act, and shall be
11 subject to provisions and remedies of the Oklahoma Consumer
12 Protection Act. An individual who has been subject to a violation
13 of this act shall have standing as a person and consumer under the
14 Oklahoma Consumer Protection Act.

15 SECTION 3. This act shall become effective November 1, 2016.

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