

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 SENATE BILL NO. 1567

By: Standridge of the Senate

and

Echols of the House

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9 COMMITTEE SUBSTITUTE

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

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

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

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

B. As used in this act:

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

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

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

19            b. reviewing the competence or qualifications of health  
20 care professionals; evaluating practitioner and  
21 provider performance health plan performance;  
22 conducting training programs in which students,  
23 trainees or practitioners in areas of health care  
24 learn under supervision to practice or improve their

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

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

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

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

5 5. "Health information organization" means any entity or  
6 organization that provides data transmission services with respect  
7 to protected health information to a covered entity and that  
8 requires access on a routine basis to such protected health  
9 information;

10 6. "Health plan" means:

- 11 a. a group health plan,
- 12 b. a health insurance issuer,
- 13 c. a health maintenance organization,
- 14 d. Parts A or B of Title XVIII of the Social Security  
15 Act,
- 16 e. Title XIX of the Social Security Act,
- 17 f. the Voluntary Prescription Drug Benefit Program  
18 pursuant to Part D of Title XVIII of the Social  
19 Security Act,
- 20 g. an issuer of a Medicare supplemental policy, as  
21 defined by 42 U.S.C., Section 1395ss(g)(1),
- 22 h. an issuer of a long-term care policy, excluding a  
23 nursing home fixed-indemnity policy,
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- i. an employee welfare benefit plan or any other arrangement established or maintained for the purpose of offering or providing benefits to the employees of two or more employers,
- j. the health care program for uniformed services pursuant to Title 10 of the United States Code,
- k. the veterans health care program pursuant to 38 U.S.C., Chapter 17,
- l. any program provided by the Indian Health Care Improvement Act, 25 U.S.C., Section 1601 et seq.,
- m. an approved state child health plan under Title XXI of the Social Security Act providing benefits and meeting the requirements of 42 U.S.C., Section 1397,
- n. the Medicare Advantage program pursuant to Part C of Title XVIII of the Social Security Act,
- o. a high-risk pool that is a mechanism established pursuant to state law to provide health insurance coverage of comparable coverage to eligible individuals, or
- p. any other individual or group plan, or combination of individual or group plans, that provides or pays for the cost of medical care;

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

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

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

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

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

20 1. Any health plan the health information organization  
21 discloses health information to; and

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

3 B. A health information organization that discloses health  
4 information to a health plan for payment or health care operations  
5 purposes shall limit the disclosure of health information to the  
6 minimum necessary amount to accomplish such purpose as provided by  
7 federal law.

8 C. Subject to the minimum necessary requirements set forth by  
9 subsection B of this act, a health information organization that  
10 discloses health information to a health plan shall only disclose  
11 health information related to individuals who are members or insured  
12 by the health plan.

13 D. A health information organization violating the provisions  
14 of the Transparency in Disclosure of Health Information Act shall be  
15 deemed to engage in an unfair trade practice, as defined by the  
16 Oklahoma Consumer Protection Act, and shall be subject to provisions  
17 and remedies of the Oklahoma Consumer Protection Act. An individual  
18 who has been subject to a violation of this act shall have standing  
19 as a person and consumer under the Oklahoma Consumer Protection Act.

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

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