ENGROSSED SENATE
BILL NO. 1567 By: Standridge of the Senate

and

Echols of the House

An Act relating to health information; providing short title; creating the Transparency in Disclosure of Health Information Act; providing definitions; requiring certain entities to publicize certain statement; providing standards for statement; providing certain limitation on disclosure of health information by certain entities; providing certain interpretation; providing certain remedies; providing certain standing; providing for codification; and providing an effective date.

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 7100.8 of Title 63, unless there is created a duplication in numbering, reads as follows:

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

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

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

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

c. except as prohibited under federal law, underwriting, enrollment, premium rating and other activities related to the creation, renewal or replacement of a contract of health insurance or health benefits and ceding, securing or placing a contract for reinsurance of risk relating to claims for health care, including stop-loss insurance and excess of loss insurance, provided that the requirements of federal law are met, if applicable,

d. conducting or arranging for medical review, legal services and auditing functions, including fraud and abuse detection and compliance programs,

e. business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the entity, including formulary development and administration, development or improvement of methods of payment or coverage policies, and

f. business management and general administrative activities of the entity, including, but not limited to:

(1) management activities relating to implementation of and compliance with the requirements of this subchapter,

(2) customer service, including the provision of data analyses for policy holders, plan sponsors or other customers, provided that protected health information is not disclosed to such policy holder, plan sponsor or customer,

(3) resolution of internal grievances,

(4) the sale, transfer, merger or consolidation of all or part of the covered entity with another covered entity or an entity that following such activity will become a covered entity and due diligence related to such activity, and

(5) consistent with the applicable requirements of federal law, creating de-identified health information or a limited data set, and fundraising for the benefit of the covered entity;

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

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

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

6. "Health plan" means:

a. a group health plan,

b. a health insurance issuer,

c. a health maintenance organization,

d. Parts A or B of Title XVIII of the Social Security Act,

e. Title XIX of the Social Security Act,

f. The Voluntary Prescription Drug Benefit Program pursuant to Part D of Title XVIII of the Social Security Act,

g. an issuer of a Medicare supplemental policy, as defined by 42 U.S.C. 1395ss(g)(1),

h. an issuer of a long-term care policy, excluding a nursing home fixed indemnity policy,

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 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. 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. 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;

8. "Payment" means the activities undertaken by health plan to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits under the health plan or to

obtain or provide reimbursement for the provision of health care; and

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

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

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

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

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

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

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

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

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

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

Passed the Senate the 8th day of March, 2016.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2016.

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Presiding Officer of the House
of Representatives