

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 SENATE BILL NO. 1128

By: Yen of the Senate

and

6 Derby of the House  
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10 COMMITTEE SUBSTITUTE

11 An Act relating to public health and safety; defining  
12 terms; requiring certain entities to establish,  
13 maintain and use an electronic prescribing system;  
14 providing standards for transmitting prescriptions;  
15 requiring prescribers and dispensers to use certain  
16 program for communicating and transmitting  
17 prescriptions; standardizing platform for  
18 transmission of prescriptions; directing providers,  
19 purchasers, prescribers and dispensers to use certain  
20 identifiers; authorizing pharmacists to forego  
21 prescription verification requirements; directing  
22 Commissioner of Health to develop and make available  
23 certain exception form; requiring certain form to be  
24 used and accepted by group purchasers; directing  
Commissioner of Health to develop certain outline for  
prior authorization requests; directing the Board of  
Pharmacy to develop a standard companion guide for  
prior authorizations; requiring drug prior  
authorization requests to be used and accepted by  
certain entities; creating the Oklahoma Electronic  
Prescribing Pilot Program; directing the State Board  
of Health and Board of Pharmacy to develop and  
implement a pilot program in certain counties;  
stating duties and requirements of the pilot program;  
providing for voluntary participation in the pilot  
program; directing submission of certain report to  
the Legislature and Governor; requiring inclusion of

1 certain quantifiable data in the report; providing  
2 for codification; and providing an effective date.

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

5 SECTION 1. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 2-316 of Title 63, unless there  
7 is created a duplication in numbering, reads as follows:

8 For the purposes of this act:

9 1. "Backward compatible" means that the newer version of a data  
10 transmission standard would retain, at a minimum, the full  
11 functionality of the versions previously adopted, and would permit  
12 the successful completion of the applicable transactions with  
13 entities that continue to use the older versions;

14 2. "Dispense" or "dispensing" has the meaning given in Section  
15 353.1 of Title 59 of the Oklahoma Statutes. For the purposes of  
16 this act, dispensing does not include the direct administering of a  
17 controlled substance to a patient by a licensed health care  
18 professional;

19 3. "Dispenser" has the meaning given in Section 353.1 of Title  
20 59 of the Oklahoma Statutes;

21 4. "E-prescribing" means the transmission using electronic  
22 media of prescription or prescription-related information between a  
23 prescriber, dispenser, pharmacy benefit manager or group purchaser,  
24 either directly or through an intermediary, including an e-

1 prescribing network. E-prescribing includes, but is not limited to,  
2 two-way transmissions between the point of care and the dispenser  
3 and two-way transmissions related to eligibility, formulary and  
4 medication history information;

5 5. "Electronic prescription drug program" means a program that  
6 provides for e-prescribing;

7 6. "Group purchaser" means a person or organization that  
8 purchases health care services on behalf of an identified group of  
9 persons, regardless of whether the cost of coverage or services is  
10 paid for by the purchaser or by the persons receiving coverage or  
11 services. "Group purchaser" includes, but is not limited to,  
12 community-integrated service networks, health insurance companies,  
13 health maintenance organizations, nonprofit health service plan  
14 corporations and other health plan companies, employee health plans  
15 offered by self-insured employers, trusts established in a  
16 collective bargaining agreement under the federal Labor-Management  
17 Relations Act of 1947, United States Code, Title 29, Section 141, et  
18 seq., group health coverage offered by fraternal organizations,  
19 professional associations or other organizations, state and federal  
20 health care programs, state and local public employee health plans,  
21 workers' compensation plans and the medical component of automobile  
22 insurance coverage;

23 7. "HL7 messages" means a standard approved by the standards  
24 development organization known as Health Level Seven;

1 8. "National Provider Identifier" or "NPI" means the identifier  
2 described under Code of Federal Regulations, Title 45, Part 162.406;

3 9. "NCPDP" means the National Council for Prescription Drug  
4 Programs, Inc;

5 10. "NCPDP Formulary and Benefits Standard" means the National  
6 Council for Prescription Drug Programs Formulary and Benefits  
7 Standard, Implementation Guide, Version 1, Release 0, October 2005;

8 11. "NCPDP SCRIPT Standard" means the National Council for  
9 Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT  
10 Standard, Implementation Guide Version 8, Release 1 (Version 8.1),  
11 October 2005, or the most recent standard adopted by the Centers for  
12 Medicare and Medicaid Services for e-prescribing under Medicare Part  
13 D as required by Section 1860D-4(e) (4) (D) of the Social Security Act  
14 (2016), and regulations adopted under it. The standards shall be  
15 implemented according to the Centers for Medicare and Medicaid  
16 Services schedule for compliance. Subsequently released versions of  
17 the NCPDP SCRIPT Standard may be used, provided that the new version  
18 of the standard is backward compatible to the current version  
19 adopted by the Centers for Medicare and Medicaid Services;

20 12. "Pharmacy" has the meaning given in Section 353.1 of Title  
21 59 of the Oklahoma Statutes;

22 13. "Prescriber" has the meaning given in Section 353.1 of  
23 Title 59 of the Oklahoma Statutes;

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1 14. "Prescription-related information" means information  
2 regarding eligibility for drug benefits, medication history, or  
3 related health or drug information; and

4 15. "Provider" or "health care provider" means a licensed  
5 health care provider as defined in Section 1-1708.1C of Title 63 of  
6 the Oklahoma Statutes.

7 SECTION 2. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 2-316.1 of Title 63, unless  
9 there is created a duplication in numbering, reads as follows:

10 A. Effective January 1, 2021, all providers, group purchasers,  
11 prescribers and dispensers shall establish, maintain and use an  
12 electronic prescription drug program. This program shall comply  
13 with the applicable standards in this act for transmitting, directly  
14 or through an intermediary, prescriptions and prescription-related  
15 information using electronic media.

16 B. If transactions described in this act are conducted, they  
17 shall be done electronically using the standards described in this  
18 act. Nothing in this act requires providers, group purchasers,  
19 prescribers or dispensers to electronically conduct transactions  
20 that are expressly prohibited by other sections or federal law.

21 C. Providers, group purchasers, prescribers and dispensers  
22 shall use either HL7 messages or the NCPDP SCRIPT Standard to  
23 transmit prescriptions or prescription-related information  
24 internally when the sender and the recipient are part of the same

1 legal entity. If an entity sends prescriptions outside the entity,  
2 it shall use the NCPDP SCRIPT Standard or other applicable standards  
3 required by this act. Any pharmacy within an entity shall be able  
4 to receive electronic prescription transmittals from outside the  
5 entity using the adopted NCPDP SCRIPT Standard. This exemption does  
6 not supersede any Health Insurance Portability and Accountability  
7 Act (HIPAA) requirement that may require the use of a HIPAA  
8 transaction standard within an organization.

9 SECTION 3. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 2-316.2 of Title 63, unless  
11 there is created a duplication in numbering, reads as follows:

12 A. Prescribers and dispensers shall use the NCPDP SCRIPT  
13 Standard for the communication of a prescription or prescription-  
14 related information. The NCPDP SCRIPT Standard shall be used to  
15 conduct the following:

- 16 1. Get message transactions;
- 17 2. Status response transactions;
- 18 3. Error response transactions;
- 19 4. New prescription transactions;
- 20 5. Prescription change request transactions;
- 21 6. Prescription change response transactions;
- 22 7. Refill prescription request transactions;
- 23 8. Refill prescription response transactions;
- 24 9. Verification transactions;

1 10. Password change transactions;

2 11. Cancel prescription request transactions; and

3 12. Cancel prescription response transaction.

4 B. Providers, group purchasers, prescribers, and dispensers  
5 shall use the NCPDP SCRIPT Standard for communicating and  
6 transmitting medication history information.

7 C. Providers, group purchasers, prescribers, and dispensers  
8 shall use the NCPDP Formulary and Benefits Standard for  
9 communicating and transmitting formulary and benefit information.

10 D. Providers, group purchasers, prescribers, and dispensers  
11 shall use the national provider identifier to identify a health care  
12 provider in e-prescribing or prescription-related transactions when  
13 a health care provider's identifier is required.

14 E. Providers, group purchasers, prescribers, and dispensers  
15 shall communicate eligibility information and conduct health care  
16 eligibility benefit inquiry and response transactions according to  
17 the requirements of this act.

18 SECTION 4. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 2-316.3 of Title 63, unless  
20 there is created a duplication in numbering, reads as follows:

21 A pharmacist who receives a written, oral or facsimile  
22 prescription shall not be required to verify that the prescription  
23 falls under one of the exceptions provided in this act. A  
24 pharmacist may continue to dispense medications from otherwise valid

1 written, oral or facsimile prescriptions that are consistent with  
2 current laws and regulations.

3 SECTION 5. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 2-316.4 of Title 63, unless  
5 there is created a duplication in numbering, reads as follows:

6 A. The Commissioner of Health, in consultation with the State  
7 Board of Pharmacy, shall develop no later than July 1, 2020, a  
8 uniform formulary exception form that allows health care providers  
9 to request exceptions from group purchaser formularies using a  
10 uniform form. Upon development of the form, all health care  
11 providers shall submit requests for formulary exceptions using the  
12 uniform form, and all group purchasers shall accept this form from  
13 health care providers.

14 B. No later than January 1, 2020, the uniform formulary  
15 exception form shall be accessible and submitted by health care  
16 providers, and accepted and processed by group purchasers, through  
17 secure electronic transmissions.

18 SECTION 6. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 2-316.5 of Title 63, unless  
20 there is created a duplication in numbering, reads as follows:

21 A. The Commissioner of Health, in consultation with the State  
22 Board of Pharmacy, shall, no later than February 15, 2019, identify  
23 an outline on how best to standardize drug prior authorization  
24 request transactions between providers and group purchasers with the



1 goal of maximizing administrative simplification and efficiency in  
2 preparation for electronic transmissions.

3 B. No later than January 1, 2020, the State Board of Pharmacy  
4 shall develop the standard companion guide by which providers and  
5 group purchasers will exchange standard drug authorization requests  
6 using electronic data interchange standards, if available, with the  
7 goal of alignment with standards that are or will potentially be  
8 used nationally.

9 C. No later than January 1, 2021, drug prior authorization  
10 requests shall be accessible and submitted by health care providers,  
11 and accepted by group purchasers, electronically through secure  
12 electronic transmissions. Facsimile shall not be considered  
13 electronic transmission.

14 SECTION 7. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 2-316.6 of Title 63, unless  
16 there is created a duplication in numbering, reads as follows:

17 A. Subject to the availability of funds, there is hereby  
18 created the "Oklahoma Electronic Prescribing Pilot Program".

19 B. The State Board of Health and the Board of Pharmacy shall  
20 jointly develop and implement a pilot program in a county or  
21 counties having a population of more than two hundred thousand  
22 (200,000) according to the latest Federal Decennial Census to test  
23 initial standards and procedures for electronic prescribing. The  
24 pilot program shall study and measure the impact of electronic

1 prescribing data transmission systems on patient safety and quality  
2 of care.

3 C. Electronic prescribing pursuant to the pilot program shall  
4 not interfere with the existing freedom of a patient to choose a  
5 pharmacy and shall not interfere with the prescribing decision at  
6 the point of care. The pilot program shall promote health care  
7 quality and the exchange of health care information consistent with  
8 applicable law including, but not limited to, applicable state and  
9 federal confidentiality and data security requirements and  
10 applicable state record retention and reporting requirements.

11 D. Participation in the Oklahoma Electronic Prescribing Pilot  
12 Program shall be voluntary to both the physician and patient on an  
13 encounter-by-encounter basis. Physicians with technological  
14 limitations that are not reasonably within the control of the  
15 physician or who lack a computer or electronic records system shall  
16 be exempt from participation in the pilot program.

17 E. The State Board of Health and the Board of Pharmacy shall,  
18 on or before January 1, 2020, submit a report to the Speaker of the  
19 Oklahoma House of Representatives, the President Pro Tempore of the  
20 Oklahoma State Senate and the Governor on the results of the pilot  
21 program and whether the pilot program should be extended for an  
22 additional year. This report shall include quantifiable data on all  
23 of the following:

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- 1        1. The number of prescribers participating in the pilot program  
2 who currently use electronic prescribing;
- 3        2. The number of pharmacies participating in the pilot program;
- 4        3. The number and percentage of prescriptions sent  
5 electronically;
- 6        4. Expenditures on the pilot program;
- 7        5. Data on whether and to what extent the pilot program  
8 achieved the following goals:
- 9            a. reduced medication errors,  
10           b. reduced prescription fraud, and  
11           c. reduced health care costs including, but not limited  
12           to, inpatient hospitalization, by reducing medication  
13           errors, increasing patient medication compliance and  
14           identifying medication contraindications.

15        SECTION 8. This act shall become effective November 1, 2018.

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17        56-2-10382        GRS        04/11/18

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