

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 SENATE BILL 1369

By: McCortney

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5
6 AS INTRODUCED

7 An Act relating to health insurance; creating the
8 Oklahoma Healthcare Transparency Initiative Act of
9 2022; providing legislative intent; defining terms;
10 directing Initiative to establish all-payer claims
11 database; establishing governance of Initiative;
12 providing Oklahoma State Health Information Network
13 and Exchange authority as administrator of
14 Initiative; requiring Exchange to establish
15 procedures, identify areas for improvement under
16 Initiative, and provide biennial report to
17 Legislature; requiring submitting entity submit
18 certain claims data quarterly; exempting certain data
19 from Oklahoma Open Records Act under certain
20 circumstances; permitting data disclosed pursuant to
21 act be available to certain parties in certain
22 circumstances; providing for compliance with federal
23 law; establishing penalty schedule; requiring
24 submission of data for integration into Initiative;
25 amending 51 O.S. 2021, Section 24A.3, which relates
26 to Oklahoma Open Records Act; omitting certain data
27 under Oklahoma Healthcare Transparency Initiative Act
28 of 2022 from definition of record; providing for
29 codification; and providing an effective date.

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

31 SECTION 1. NEW LAW A new section of law to be codified
32 in the Oklahoma Statutes as Section 6971 of Title 36, unless there
33 is created a duplication in numbering, reads as follows:
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1 This act shall be known and may be cited as the "Oklahoma
2 Healthcare Transparency Initiative Act of 2022".

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 6972 of Title 36, unless there
5 is created a duplication in numbering, reads as follows:

6 A. It is the intent of the Legislature to create and maintain
7 an informative source of healthcare information to support
8 consumers, researchers, and policymakers in healthcare decisions
9 within this state including decisions by the Insurance Department to
10 regulate the business of insurance in this state.

11 B. The purpose of this act is to:

- 12 1. Create the Oklahoma Healthcare Transparency Initiative;
- 13 2. Establish governance of the Oklahoma Healthcare Transparency
14 Initiative;
- 15 3. Provide authority to collect healthcare information from
16 insurance carriers and other entities; and
- 17 4. Establish appropriate methods for collecting, maintaining,
18 and reporting healthcare information including privacy and security
19 safeguards.

20 SECTION 3. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 6973 of Title 36, unless there
22 is created a duplication in numbering, reads as follows:

23 As used in the "Oklahoma Healthcare Transparency Initiative Act
24 of 2022":

1 1. "Oklahoma Healthcare Transparency Initiative" means an
2 initiative to create a database including ongoing all-payer claims
3 database projects that receive and store data from a submitting
4 entity relating to medical, dental, pharmaceutical, and other
5 insurance claims information, unique identifiers, and geographic and
6 demographic information for covered individuals as permitted in this
7 act, and provider files, for the purposes of this act;

8 2. "Oklahoma resident" means an individual for whom the
9 submitting entity has identified an Oklahoma address as the primary
10 place of residence of the individual;

11 3. "Claims data" means information included in an
12 institutional, professional, or pharmacy claim or equivalent
13 information transaction for a covered individual including the
14 amount paid to a provider of healthcare services plus any amount
15 owed by the covered individual;

16 4. "Covered individual" means a natural person who is an
17 Oklahoma resident and is eligible to receive medical, dental, or
18 pharmaceutical benefits under any policy, contract, certificate,
19 evidence of coverage, rider, binder, or endorsement that provides
20 for or describes coverage;

21 5. "Direct personal identifiers" means information relating to
22 a covered individual that contains primary or obvious identifiers,
23 such as the individual's name, street address, e-mail address,
24 telephone number, and Social Security number. Direct personal
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1 identifiers shall not include geographic or demographic information
2 that would not allow the identification of a covered individual;

3 6. "Enrollment data" means demographic information and other
4 identifying information relating to covered individuals including
5 direct personal identifiers;

6 7. "Exchange" means the Oklahoma State Health Information
7 Network and Exchange.

8 8. "Protected health information" means health information as
9 protected by the Health Insurance Portability and Accountability Act
10 of 1996, Pub. L. No. 104-191;

11 9. "Provider" means an individual or entity licensed by the
12 state to provide healthcare services;

13 10. "Submitting entity" means:

- 14 a. an entity that provides health or dental insurance or
15 a health or dental benefit plan in the state including
16 without limitation an insurance company, medical
17 services plan, managed care organization, hospital
18 plan, hospital medical service corporation, health
19 maintenance organization, or fraternal benefit
20 society, provided that the entity has covered
21 individuals and the entity had at least two thousand
22 (2,000) covered individuals in the previous calendar
23 year,

- 1 b. a health benefit plan offered or administered by or on
2 behalf of the state or an agency or instrumentality of
3 the state including without limitation benefits
4 administered by a managed care organization,
5 notwithstanding the number of covered individuals in
6 the previous year,
- 7 c. a health benefit plan offered or administered by or on
8 behalf of the federal government with the agreement of
9 the federal government,
- 10 d. the Workers' Compensation Commission,
- 11 e. any other entity providing a plan of health insurance
12 or health benefits subject to state insurance
13 regulation, a third-party administrator, or a pharmacy
14 benefits manager; provided, that the entity has
15 covered individuals and the entity had at least two
16 thousand (2,000) covered individuals in the previous
17 calendar year,
- 18 f. a health benefit plan subject to the Employee
19 Retirement Income Security Act of 1974, Pub. L. No.
20 93-406, and that is fully insured,
- 21 g. a risk-based provider organization licensed by the
22 Insurance Department, and
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1 h. any entity that contracts with the Department of
2 Corrections to provide medical, dental, or
3 pharmaceutical care to inmates.

4 A submitting entity shall not include an entity that provides
5 health insurance or a health benefit plan that is accident-only,
6 specified disease, hospital indemnity, long-term care, disability
7 income, or other supplemental benefit coverage, an employee of a
8 welfare benefit plan as defined by federal law that is also a trust
9 established pursuant to collective bargaining subject to the Labor
10 Management Relations Act, 1947, Pub. L. No. 80-101, or a health
11 benefit plan subject to the Employee Retirement Income Security Act
12 of 1974, Pub. L. No. 93-406, that is self-funded; and

13 11. "Unique identifier" means any identifier that is guaranteed
14 to be unique among all identifiers for covered individuals but does
15 not include direct personal identifiers.

16 SECTION 4. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 6974 of Title 36, unless there
18 is created a duplication in numbering, reads as follows:

19 A. The Oklahoma Healthcare Transparency Initiative shall be
20 governed by the Oklahoma State Health Information Network and
21 Exchange.

22 B. The Exchange shall be the administrator of the Oklahoma
23 Healthcare Transparency Initiative, and shall be responsible for
24 development and implementation of a sustainability plan subject to

1 data use and disclosure requirements of this act and any rules
2 promulgated therein. The Exchange shall have the authority to:

- 3 1. Collect, validate, analyze, and present health data
4 including claims data; and
- 5 2. Assess penalties for noncompliance with this section.

6 C. The Exchange shall exercise its powers and duties under this
7 section to:

8 1. Establish policies and procedures necessary for the
9 administration and oversight of the Oklahoma Healthcare Transparency
10 Initiative including procedures for the collection, processing,
11 storage, analysis, use, and release of data;

12 2. Identify and explore the key healthcare issues, questions,
13 and problems that may be improved through more transparent
14 information including without limitation data required to be
15 disclosed to patients related to provider relationships or
16 affiliations with payers and providers, financial interests in
17 healthcare businesses, and payments or items of any value given to
18 providers from pharmaceutical or medical device manufacturers or
19 agents thereof; and

20 3. Provide a biennial report to the Legislature on the
21 operations of the Oklahoma Healthcare Transparency Initiative.

22 SECTION 5. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 6975 of Title 36, unless there
24 is created a duplication in numbering, reads as follows:

1 A. No later than January 1, 2023, and every quarter thereafter,
2 a submitting entity shall submit health and dental claims data,
3 unique identifiers, and geographic and demographic information for
4 covered individuals as permitted in this act, and provider files to
5 the Oklahoma Healthcare Transparency Initiative in accordance with
6 standards and procedures adopted by the Oklahoma State Health
7 Information Network and Exchange.

8 B. Data submitted under this section shall be treated as
9 confidential and shall be exempt from disclosure as a record under
10 the Open Records Act as defined pursuant to Section 24A.3 of Title
11 51 of the Oklahoma Statutes and are not subject to subpoena except
12 to the extent provided in the Oklahoma Insurance Code.

13 C. The collection, storage, and release of data and other
14 information under this section is subject to applicable state and
15 federal data privacy and security law.

16 SECTION 6. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 6976 of Title 36, unless there
18 is created a duplication in numbering, reads as follows:

19 A. Data in the Oklahoma Healthcare Transparency Initiative
20 shall, to the extent authorized by the Oklahoma State Health
21 Information Network and Exchange, be available:

22 1. When disclosed in a form and manner that ensures the privacy
23 and security of protected health information as required by state
24 and federal laws, as a resource to insurers, employers, purchasers

1 of health care, researchers, state agencies, and healthcare
2 providers to allow for assessment of healthcare utilization,
3 expenditures, and performance in this state including without
4 limitation as a resource for hospital community health needs
5 assessments; and

6 2. To state programs regarding healthcare quality and costs for
7 use in improving health care in the state, subject to rules
8 prescribed by the Exchange conforming to state and federal privacy
9 laws or limiting access to limited-use data sets.

10 B. Data in the Oklahoma Healthcare Transparency Initiative
11 shall not be used to disclose trade secrets of submitting entities,
12 reidentify or attempt to reidentify an individual who is the subject
13 of any submitted data without obtaining the individual's consent, or
14 create or augment data contained in a national claims database.

15 C. Notwithstanding any other section of law, the Oklahoma
16 Healthcare Transparency Initiative shall not publicly disclose any
17 data that contains direct personal identifiers.

18 SECTION 7. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 6977 of Title 36, unless there
20 is created a duplication in numbering, reads as follows:

21 A. Except for state or federal agencies that are submitting
22 entities, a submitting entity that fails to submit data as required
23 by this act or the rules of the Oklahoma State Health Information
24 Network and Exchange may be subject to a penalty.

1 B. The Exchange shall adopt a schedule of penalties not to
2 exceed One Thousand Dollars (\$1,000.00) per day for each day the
3 violation occurs, determined by the severity of the violation.

4 C. A penalty imposed under this section may be remitted or
5 mitigated upon such terms and conditions as the Exchange considers
6 proper and consistent with the public health and safety.

7 D. A penalty remitted under this section shall be used to fund
8 Oklahoma Healthcare Transparency Initiative operations.

9 SECTION 8. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 6978 of Title 36, unless there
11 is created a duplication in numbering, reads as follows:

12 A. The State Department of Health shall submit data collected
13 under Section 1-115 et seq. of Title 63 of the Oklahoma Statutes to
14 the Oklahoma Healthcare Transparency Initiative for integration into
15 the Initiative.

16 B. The data submitted under subsection A of this section shall
17 be assigned a unique identifier as defined in Section 3 of this act
18 and may be used in accordance with the purposes of the Oklahoma
19 Healthcare Transparency Initiative and the rules promulgated
20 pursuant to this act.

21 SECTION 9. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 6979 of Title 36, unless there
23 is created a duplication in numbering, reads as follows:

1 A. The State Department of Health shall submit data collected
2 regarding hospital discharge and emergency department records for
3 the uninsured, birth and death records, and disease registry data
4 under Sections 1-115 et seq. and 1-323 et seq. of Title 63 of the
5 Oklahoma Statutes, and Rule 310:567-1-1 et seq. of the Oklahoma
6 Administrative Code, to the Oklahoma Healthcare Transparency
7 Initiative Board for integration into the Initiative database
8 created under Section 4 of this act.

9 B. The data submitted under subsection A of this section shall
10 be assigned a unique identifier as defined in Section 3 of this act
11 and may be used in accordance with the purposes of the Oklahoma
12 Healthcare Transparency Initiative and the rules promulgated under
13 this act.

14 SECTION 10. AMENDATORY 51 O.S. 2021, Section 24A.3, is
15 amended to read as follows:

16 Section 24A.3. As used in the Oklahoma Open Records Act:

17 1. "Record" means all documents, including, but not limited to,
18 any book, paper, photograph, microfilm, data files created by or
19 used with computer software, computer tape, disk, record, sound
20 recording, film recording, video record or other material regardless
21 of physical form or characteristic, created by, received by, under
22 the authority of, or coming into the custody, control or possession
23 of public officials, public bodies, or their representatives in
24 connection with the transaction of public business, the expenditure

1 of public funds or the administering of public property. "Record"
2 does not mean:

- 3 a. computer software,
- 4 b. nongovernment personal effects,
- 5 c. unless public disclosure is required by other laws or
6 regulations, vehicle movement records of the Oklahoma
7 Transportation Authority obtained in connection with
8 the Authority's electronic toll collection system,
- 9 d. personal financial information, credit reports or
10 other financial data obtained by or submitted to a
11 public body for the purpose of evaluating credit
12 worthiness, obtaining a license, permit, or for the
13 purpose of becoming qualified to contract with a
14 public body,
- 15 e. any digital audio/video recordings of the toll
16 collection and safeguarding activities of the Oklahoma
17 Transportation Authority,
- 18 f. any personal information provided by a guest at any
19 facility owned or operated by the Oklahoma Tourism and
20 Recreation Department or the Board of Trustees of the
21 Quartz Mountain Arts and Conference Center and Nature
22 Park to obtain any service at the facility or by a
23 purchaser of a product sold by or through the Oklahoma
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- 1 Tourism and Recreation Department or the Quartz
2 Mountain Arts and Conference Center and Nature Park,
3 g. a Department of Defense Form 214 (DD Form 214) filed
4 with a county clerk, including any DD Form 214 filed
5 before July 1, 2002, ~~or~~
6 h. except as provided for in Section 2-110 of Title 47 of
7 the Oklahoma Statutes,
8 (1) any record in connection with a Motor Vehicle
9 Report issued by the Department of Public Safety,
10 as prescribed in Section 6-117 of Title 47 of the
11 Oklahoma Statutes, or
12 (2) personal information within driver records, as
13 defined by the Driver's Privacy Protection Act,
14 18 United States Code, Sections 2721 through
15 2725, which are stored and maintained by the
16 Department of Public Safety, or
17 i. data submitted pursuant to Section 5 of the Oklahoma
18 Healthcare Transparency Initiative Act of 2022;

19 2. "Public body" shall include, but not be limited to, any
20 office, department, board, bureau, commission, agency, trusteeship,
21 authority, council, committee, trust or any entity created by a
22 trust, county, city, village, town, township, district, school
23 district, fair board, court, executive office, advisory group, task
24 force, study group, or any subdivision thereof, supported in whole

1 or in part by public funds or entrusted with the expenditure of
2 public funds or administering or operating public property, and all
3 committees, or subcommittees thereof. Except for the records
4 required by Section 24A.4 of this title, "public body" does not mean
5 judges, justices, the Council on Judicial Complaints, the
6 Legislature, or legislators;

7 3. "Public office" means the physical location where public
8 bodies conduct business or keep records;

9 4. "Public official" means any official or employee of any
10 public body as defined herein; and

11 5. "Law enforcement agency" means any public body charged with
12 enforcing state or local criminal laws and initiating criminal
13 prosecutions, including, but not limited to, police departments,
14 county sheriffs, the Department of Public Safety, the Oklahoma State
15 Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic
16 Beverage Laws Enforcement Commission, and the Oklahoma State Bureau
17 of Investigation.

18 SECTION 11. This act shall become effective November 1, 2022.

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