

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION

☒ FLOOR AMENDMENT

No. 1

☐ COMMITTEE AMENDMENT

(Date)


I move to amend Senate Bill No. 1369 by substituting the attached floor substitute (Request #3725) for the title, enacting clause and entire body of the measure.

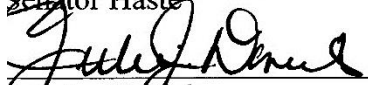
Submitted by:



Senator Haste

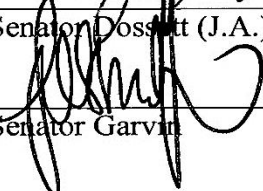
I hereby grant permission for the floor substitute to be adopted.


Senator Rosino, Chair (required)



Senator Haste



Senator Daniels


Senator Dossert (J.A.)


Senator Garvin

Senator Treat, President Pro Tempore


Senator Hicks


Senator Pugh


Senator Simpson


Senator Standridge

Senator Young

Senator McCortney, Majority Floor
Leader

Note: Health and Human Services committee majority requires six (6) members' signatures.

Haste-DC-FS-SB1369

3/22/2022 11:47 AM

(Floor Amendments Only)

Date and Time Filed: 3-22-22

2:06 pm *fd*

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

FLOOR SUBSTITUTE
FOR

SENATE BILL NO. 1369

By: Haste of the Senate

and

McEntire of the House

FLOOR SUBSTITUTE

[health information - Oklahoma Healthcare
Transparency Initiative Act of 2022 - Office of the
State Coordinator for Health Information Exchange -
health information exchange legislative intent -
definitions - Oklahoma Healthcare Transparency
Initiative - submission of claims data - disclosure
of data - penalty schedule - Oklahoma Open Records
Act - codification - effective date - emergency]

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 1-134.1 of Title 63, unless
there is created a duplication in numbering, reads as follows:

Sections 4 through 10 of this act shall be known and may be
cited as the "Oklahoma Healthcare Transparency Initiative Act of
2022".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-132.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Office of the State Coordinator for Health Information Exchange within the Oklahoma Health Care Authority.

B. The Office shall have the power and duty to:

1. a. Serve as the state designated entity for health information exchange, if the State of Oklahoma serves as the state designated entity for health information exchange under Section 1-133 of Title 63 of the Oklahoma Statutes, or

b. Oversee the state designated entity for health information exchange, if the State of Oklahoma designates a state designated entity for health information exchange under Section 1-133 of Title 63 of the Oklahoma Statutes; and

2. Implement and govern the Oklahoma Healthcare Transparency Initiative created under Sections 4 through 10 of this act.

C. The Office shall consist of the State Coordinator for Health Information Exchange, who shall be appointed by and serve at the pleasure of the Administrator of the Authority, and such other employees of the Authority as the Administrator may assign to the Office.

SECTION 3. AMENDATORY 63 O.S. 2021, Section 1-133, is amended to read as follows:

Section 1-133. A. As used in this section:

1. "Health care entity" means:

- a. a health plan that, either as an individual or group, provides for, or pays the cost of, medical care,
- b. a health care provider that offers or renders medical or health services, or
- c. any further individual or association defined as a covered entity under 45 C.F.R., Section 160.103; and

2. "Health information exchange" means the electronic movement of health-related information among organizations according to nationally recognized standards for purposes including, but not limited to, payment, treatment, and administration;

~~2. "Health information exchange organization" means an entity whose primary business activity is health information exchange; and~~

~~3. "Oklahoma State Health Information Network and Exchange" or "OKSHINE" means a health information exchange organization charged with facilitating the exchange of health information to and from authorized individuals and health care organizations in this state and.~~

B. The State of Oklahoma shall serve as or shall designate the
~~state-designated~~ state designated entity for health information exchange.

1 ~~B. The Oklahoma Health Care Authority (OHCA) shall establish a~~
2 ~~health information exchange certification with input from~~
3 ~~stakeholders. Such certification shall be required in order for a~~
4 ~~health information exchange organization to qualify as an Oklahoma~~
5 ~~Statewide Health Information Exchange (OKHIE). Until such time as~~
6 ~~the health information exchange certification is established by~~
7 ~~OHCA, an OKHIE shall mean either OKSHINE or a health information~~
8 ~~exchange organization that was previously certified by the Oklahoma~~
9 ~~Health Information Exchange Trust.~~

10 ~~C. The Oklahoma State Health Information Network and Exchange~~
11 ~~(OKSHINE) shall be organized for the purpose of improving the health~~
12 ~~of residents of this state by:~~

13 ~~1. Promoting efficient and effective communication among~~
14 ~~multiple health care providers including, but not limited to,~~
15 ~~hospitals, physicians, payers, employers, pharmacies, laboratories,~~
16 ~~and other health care entities or health information exchange~~
17 ~~networks and organizations;~~

18 ~~2. Creating efficiencies in health care costs by eliminating~~
19 ~~redundancy in data capture and storage and reducing administrative,~~
20 ~~billing, and data collection costs;~~

21 ~~3. Creating the ability to monitor community health status; and~~

22 ~~4. Providing reliable information to health care consumers and~~
23 ~~purchasers regarding the quality of health care.~~

1 C. Beginning July 1, 2023, all health care entities licensed by
2 and located in this state shall report data to and utilize the state
3 designated entity. The Office of the State Coordinator for Health
4 Information Exchange may, as provided by rules promulgated by the
5 Oklahoma Health Care Authority Board, allow exemptions from the
6 requirement provided by this subsection on the basis of financial
7 hardship, size, or technological capability of a health care entity
8 or such other bases as may be provided by rules promulgated by the
9 Board.

10 D. 1. A person who participates in the services or information
11 provided by ~~OKSHINE or an OKHIE~~ the state designated entity shall
12 not be liable in any action for damages or costs of any nature that
13 result solely from the person's use or failure to use ~~either an~~
14 ~~OKHIE or OKSHINE~~ information or data from the state designated
15 entity that was entered or retrieved under relevant state or federal
16 privacy laws, rules, regulations, or policies including, but not
17 limited to, the Health Insurance Portability and Accountability Act
18 of 1996.

19 2. A person shall not be subject to antitrust or unfair
20 competition liability based on participation ~~in OKSHINE or an OKHIE~~
21 with the state designated entity as long as the participation
22 provides an essential governmental function for the public health
23 and safety and enjoys state action immunity.

1 ~~3. Participating in an OKHIE shall qualify as meeting any~~
2 ~~requirement to send data to OKSHINE.~~

3 E. ~~1.~~ A person who provides information and data to ~~OKSHINE~~
4 the state designated entity retains a property right in the
5 information or data, but grants to the other participants or
6 subscribers a nonexclusive license to retrieve and use that
7 information or data under relevant state or federal privacy laws,
8 rules, regulations, or policies including, but not limited to, the
9 Health Insurance Portability and Accountability Act of 1996.

10 ~~2. All processes or software developed, designed, or purchased~~
11 ~~by OKSHINE shall remain the property of OKSHINE subject to use by~~
12 ~~participants or subscribers.~~

13 F. Patient-specific protected health information shall only be
14 disclosed in accordance with the patient's authorization or in
15 compliance with relevant state or federal privacy laws, rules,
16 regulations, or policies including, but not limited to, the Health
17 Insurance Portability and Accountability Act of 1996.

18 G. The Oklahoma Health Care Authority Board shall promulgate
19 rules to implement the provisions of this section.

20 SECTION 4. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1-134.2 of Title 63, unless
22 there is created a duplication in numbering, reads as follows:

23 A. It is the intent of the Legislature to create and maintain
24 an informative source of healthcare information to support

1 consumers, researchers, and policymakers in healthcare decisions
2 within this state.

3 B. The purpose of the Oklahoma Healthcare Transparency
4 Initiative Act is to:

5 1. Create the Oklahoma Healthcare Transparency Initiative;

6 2. Establish governance of the Oklahoma Healthcare Transparency
7 Initiative;

8 3. Provide authority to collect healthcare information from
9 insurance carriers and other entities; and

10 4. Establish appropriate methods for collecting, maintaining,
11 and reporting healthcare information including privacy and security
12 safeguards.

13 SECTION 5. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1-134.3 of Title 63, unless
15 there is created a duplication in numbering, reads as follows:

16 As used in the Oklahoma Healthcare Transparency Initiative Act
17 of 2022:

18 1. "Board" means the Oklahoma Health Care Authority Board;

19 2. "Claims data" means information included in an
20 institutional, professional, or pharmacy claim or equivalent
21 information transaction for a covered individual including the
22 amount paid to a provider of healthcare services plus any amount
23 owed by the covered individual;

24

1 3. "Covered individual" means a natural person who is a
2 resident of this state and is eligible to receive medical, dental,
3 or pharmaceutical benefits under any policy, contract, certificate,
4 evidence of coverage, rider, binder, or endorsement that provides
5 for or describes coverage;

6 4. "Direct personal identifiers" means information relating to
7 a covered individual that contains primary or obvious identifiers,
8 such as the individual's name, street address, e-mail address,
9 telephone number, or Social Security number. Direct personal
10 identifiers shall not include geographic or demographic information
11 that would not allow the identification of a covered individual;

12 5. "Enrollment data" means demographic information and other
13 identifying information relating to covered individuals including
14 direct personal identifiers;

15 6. "Office" means the Office of the State Coordinator for
16 Health Information Exchange;

17 7. "Oklahoma Healthcare Transparency Initiative" means an
18 initiative to create a database including ongoing all-payer claims
19 database projects that receive and store data from a submitting
20 entity relating to medical, dental, pharmaceutical, and other
21 insurance claims information, unique identifiers, and geographic and
22 demographic information for covered individuals as permitted in the
23 Oklahoma Healthcare Transparency Initiative Act, and provider files,
24

1 for the purposes of the Oklahoma Healthcare Transparency Initiative
2 Act;

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

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

8 10. a. "Submitting entity" means:

9 (1) an entity that provides health or dental
10 insurance or a health or dental benefit plan in
11 the state including but not limited to an
12 insurance company, medical services plan, managed
13 care organization, hospital plan, hospital
14 medical service corporation, health maintenance
15 organization, or fraternal benefit society,
16 provided that the entity has covered individuals
17 and the entity had at least two thousand covered
18 individuals in the previous calendar year,

19 (2) a health benefit plan offered or administered by
20 or on behalf of the state or an agency or
21 instrumentality of the state including but not
22 limited to benefits administered by a managed
23 care organization, notwithstanding the number of
24 covered individuals in the previous year,

- 1 (3) a health benefit plan offered or administered by
2 or on behalf of the federal government with the
3 agreement of the federal government,
4 (4) the Workers' Compensation Commission,
5 (5) any other entity providing a plan of health
6 insurance or health benefits subject to state
7 insurance regulation, a third-party
8 administrator, or a pharmacy benefits manager;
9 provided, that the entity has covered individuals
10 and the entity had at least two thousand covered
11 individuals in the previous calendar year,
12 (6) a health benefit plan subject to the Employee
13 Retirement Income Security Act of 1974, Pub. L.
14 No. 93-406, and that is fully insured,
15 (7) a risk-based provider organization licensed by
16 the Insurance Department, and
17 (8) any entity that contracts with the Department of
18 Corrections to provide medical, dental, or
19 pharmaceutical care to inmates.

20 b. A submitting entity shall not include:

- 21 (1) an entity that provides health insurance or a
22 health benefit plan that is accident-only,
23 specified disease, hospital indemnity, long-term
24

care, disability income, or other supplemental benefit coverage,

(2) an employee of a welfare benefit plan as defined by federal law that is also a trust established pursuant to collective bargaining subject to the Labor Management Relations Act of 1947, Pub. L. No. 80-101, or

(3) a health benefit plan subject to the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, that is self-funded; and

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

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-134.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Oklahoma Healthcare Transparency Initiative, which shall be governed by the Office of the State Coordinator for Health Information Exchange.

B. The Office shall be the administrator of the Oklahoma Healthcare Transparency Initiative and shall, in collaboration with the state designated entity for health information exchange, be responsible for development and implementation of a sustainability plan subject to data use and disclosure requirements of the Oklahoma

1 Healthcare Transparency Initiative Act and any rules promulgated by
2 the Oklahoma Health Care Authority Board under the Oklahoma
3 Healthcare Transparency Initiative Act.

4 C. The Office shall have the power and duty to:

5 1. Collect, validate, analyze, and present health data
6 including claims data;

7 2. Assess penalties for noncompliance with this section;

8 3. 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 4. Identify and explore the key healthcare issues, questions,
13 and problems that may be improved through more transparent
14 information including but not limited to 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 5. Provide a biennial report to the Legislature on the
21 operations of the Oklahoma Healthcare Transparency Initiative.

22 SECTION 7. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1-134.5 of Title 63, unless
24 there is created a duplication in numbering, reads as follows:

1 A. No later than July 1, 2023, and thereafter in a frequency
2 specified in rules promulgated by the Oklahoma Health Care Authority
3 Board, a submitting entity shall submit claims data, unique
4 identifiers, and geographic and demographic information for covered
5 individuals as permitted in the Oklahoma Healthcare Transparency
6 Initiative Act, and provider files to the Oklahoma Healthcare
7 Transparency Initiative in accordance with standards and procedures
8 promulgated by the Board.

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

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

17 SECTION 8. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 1-134.6 of Title 63, unless
19 there is created a duplication in numbering, reads as follows:

20 A. Data in the Oklahoma Healthcare Transparency Initiative
21 shall, to the extent authorized by rules promulgated by the Oklahoma
22 Health Care Authority Board, be available:

23 1. When disclosed in a form and manner that ensures the privacy
24 and security of protected health information as required by state

1 and federal laws, as a resource to insurers, employers, purchasers
2 of health care, researchers, state agencies, and healthcare
3 providers to allow for assessment of healthcare utilization,
4 expenditures, and performance in this state including but not
5 limited to as a resource for hospital community health needs
6 assessments; and

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

11 B. Data in the Oklahoma Healthcare Transparency Initiative
12 shall not be used to disclose trade secrets of submitting entities,
13 and shall be used or disclosed only in compliance with applicable
14 state and federal data privacy and security law and in compliance
15 with the policies established by the Board.

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

19 SECTION 9. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1-134.7 of Title 63, unless
21 there is created a duplication in numbering, reads as follows:

22 A. Except for state or federal agencies that are submitting
23 entities, a submitting entity that fails to submit data as required
24 by the Oklahoma Healthcare Transparency Initiative Act or the rules

1 promulgated by the Oklahoma Health Care Authority Board may be
2 subject to a penalty.

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

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

9 D. A penalty remitted under this section shall be used to fund
10 operations of the Oklahoma Healthcare Transparency Initiative.

11 SECTION 10. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1-134.8 of Title 63, unless
13 there is created a duplication in numbering, reads as follows:

14 A. The State Department of Health shall submit all public
15 health data and vital statistics data collected by the Department to
16 the Oklahoma Healthcare Transparency Initiative for integration into
17 the Initiative database created under Section 6 of this act
18 including but not limited to data collected regarding hospital
19 discharge and emergency department records for the uninsured, birth
20 and death records, and disease registry data under Sections 1-115 et
21 seq., 1-323 et seq., 1-541, and 1-551.1 of Title 63 of the Oklahoma
22 Statutes.

23 B. The data submitted under subsection A of this section shall
24 be assigned a unique identifier and may be used in accordance with

1 the purposes of the Oklahoma Healthcare Transparency Initiative and
2 the rules promulgated pursuant to the Oklahoma Healthcare
3 Transparency Initiative Act.

4 SECTION 11. AMENDATORY 51 O.S. 2021, Section 24A.3, is
5 amended to read as follows:

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

7 1. "Record" means all documents, including, but not limited to,
8 any book, paper, photograph, microfilm, data files created by or
9 used with computer software, computer tape, disk, record, sound
10 recording, film recording, video record or other material regardless
11 of physical form or characteristic, created by, received by, under
12 the authority of, or coming into the custody, control or possession
13 of public officials, public bodies, or their representatives in
14 connection with the transaction of public business, the expenditure
15 of public funds or the administering of public property. ~~"Record"~~

16 Record does not mean:

- 17 a. computer software,
- 18 b. nongovernment personal effects,
- 19 c. unless public disclosure is required by other laws or
20 regulations, vehicle movement records of the Oklahoma
21 Transportation Authority obtained in connection with
22 the Authority's electronic toll collection system,
- 23 d. personal financial information, credit reports or
24 other financial data obtained by or submitted to a

1 public body for the purpose of evaluating credit
2 worthiness, obtaining a license, permit, or for the
3 purpose of becoming qualified to contract with a
4 public body,

5 e. any digital audio/video recordings of the toll
6 collection and safeguarding activities of the Oklahoma
7 Transportation Authority,

8 f. any personal information provided by a guest at any
9 facility owned or operated by the Oklahoma Tourism and
10 Recreation Department or the Board of Trustees of the
11 Quartz Mountain Arts and Conference Center and Nature
12 Park to obtain any service at the facility or by a
13 purchaser of a product sold by or through the Oklahoma
14 Tourism and Recreation Department or the Quartz
15 Mountain Arts and Conference Center and Nature Park,

16 g. a Department of Defense Form 214 (DD Form 214) filed
17 with a county clerk, including any DD Form 214 filed
18 before July 1, 2002, ~~or~~

19 h. except as provided for in Section 2-110 of Title 47 of
20 the Oklahoma Statutes,

21 (1) any record in connection with a Motor Vehicle
22 Report issued by the Department of Public Safety,
23 as prescribed in Section 6-117 of Title 47 of the
24 Oklahoma Statutes, or

(2) personal information within driver records, as defined by the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725, which are stored and maintained by the Department of Public Safety, or

i. data submitted under the Oklahoma Healthcare Transparency Initiative Act of 2022;

2. "Public body" shall include, but not be limited to, any office, department, board, bureau, commission, agency, trusteeship, authority, council, committee, trust or any entity created by a trust, county, city, village, town, township, district, school district, fair board, court, executive office, advisory group, task force, study group, or any subdivision thereof, supported in whole or in part by public funds or entrusted with the expenditure of public funds or administering or operating public property, and all committees, or subcommittees thereof. Except for the records required by Section 24A.4 of this title, ~~"public body"~~ public body does not mean judges, justices, the Council on Judicial Complaints, the Legislature, or legislators;

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

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

1 5. "Law enforcement agency" means any public body charged with
2 enforcing state or local criminal laws and initiating criminal
3 prosecutions, including, but not limited to, police departments,
4 county sheriffs, the Department of Public Safety, the Oklahoma State
5 Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic
6 Beverage Laws Enforcement Commission, and the Oklahoma State Bureau
7 of Investigation.

8 SECTION 12. This act shall become effective July 1, 2022.

9 SECTION 13. It being immediately necessary for the preservation
10 of the public peace, health or safety, an emergency is hereby
11 declared to exist, by reason whereof this act shall take effect and
12 be in full force from and after its passage and approval.

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