

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1660 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Marcus McEntire

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 1660

By: McEntire

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to public health and safety; creating the Social Care Privacy Act; providing definitions; providing parameters for social care information; providing exceptions; providing for preemption; excluding private right of action; 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 7120 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Social Care Privacy Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7121 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Aggregate social care information" means information that relates to a group or category of social care consumers covered

1 under this act from which individually identifiable social care
2 information has been removed and is not linked to or reasonably
3 linkable to a particular social care consumer covered under this
4 act;

5 2. "Closed-loop referral system" or "CLRS" means any system
6 that:

- 7 a. stores an individual's social care information for the
8 purpose of referrals,
- 9 b. shares its social care information with a network of
10 entities including, but not limited to, health care
11 providers, health plans, health information exchanges
12 (HIEs), public agencies, nonprofits, charitable
13 organizations, and other entities that provide social
14 care, and
- 15 c. is capable of updating or showing updated referral
16 activity, including data related to participating
17 organizations closing the loop on referrals, by
18 updating downstream systems;

19 3. "Individually identifiable social care information" means
20 information that identifies an individual receiving or seeking
21 social care services or information that in combination with or
22 linked to any one or more of the following data elements that relate
23 to a resident of this state seeking social care services:

- 24 a. Social Security number,

- b. driver license number or state identification number issued in lieu of a driver license,
- c. financial account number, or credit or debit card number, in combination with any required security code, access code, or password that would permit access to the financial accounts of an individual, or
- d. any other information that identifies, relates to, describes, can be associated with, or can be reasonably linked to, directly or indirectly, a particular individual.

The term does not include information that is lawfully obtained from publicly available information, or from federal, state, or local government records lawfully made available to the public;

4. "Participating organization" means any entity including, but not limited to, health care providers, health plans, HIEs, public agencies, nonprofits, charitable organizations, CLRS technology vendors, and entities that provide social care that have the ability to create, receive, or update referrals or other social care information in a CLRS. This definition applies to entities that use a CLRS regardless of whether they have entered into contractual agreements with a CLRS technology vendor;

5. "Social care" means care, services, goods, or supplies related to an individual's social needs. Social care includes, but is not limited to, support and assistance for an individual's food

1 stability and nutritional needs, housing, transportation, economic
2 stability, employment, education access and quality, child care and
3 family relationship needs, and environmental and physical safety;
4 and

5 6. "Social care information" means any information, in any
6 form, that relates to the need for, payment for, or provision of
7 social care, including individually identifiable social care
8 information; provided, social care information created or received
9 by a Health Insurance Portability and Accountability Act of 1996
10 (HIPAA) covered entity that meets the HIPAA statutory definition for
11 protected health information shall always be handled in accordance
12 with HIPAA and all related laws and regulations.

13 SECTION 3. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 7122 of Title 63, unless there
15 is created a duplication in numbering, reads as follows:

16 A. An individual's social care information may be added to a
17 closed-loop referral system (CLRS) only if:

18 1. The individual consents to its inclusion on each instance of
19 a referral for social care services; and

20 2. The individual retains the right to revoke consent to be in
21 the CLRS at any time.

22 B. No participating organization utilizing the CLRS shall have
23 access to an individual's social care information unless:

24

1 1. The individual has been referred to that provider or
2 organization for social care services; or

3 2. The individual has consented for that provider or
4 organization to access such information.

5 C. Participating organizations must have policies and controls
6 in place defining staff roles necessary for the referral and
7 provision of social care services and for the purpose of providing
8 social care coordination. These policies shall:

9 1. Provide access to social care information as necessary to
10 ensure uninterrupted and efficient delivery of social care services
11 and social care coordination; and

12 2. Restrict or prohibit access to social care information by
13 staff, volunteers, and any other individuals who do not need access
14 to complete their duties.

15 D. A participating organization may not condition the provision
16 of social care services on consent to share a social care service
17 recipient's social care information with additional employees,
18 partner organizations, or other parties not necessary for the
19 provision of services.

20 E. A participating organization shall not share or transmit
21 social care information with a third party unless:

22 1. It is necessary to comply with a legal obligation imposed by
23 federal, state, tribal, or local law or for reporting required to
24 receive government grant funds; or

- 1 2. a. the individual consents through active opt-in consent
2 for the participating organization to share or
3 transmit the information, and
4 b. that third party is required to meet the same
5 obligations as a participating organization under this
6 act.

7 If the third party is not a participating organization as
8 defined under this act, a participating organization shall ensure
9 the third party meets these requirements through contractual
10 provisions. A participating organization shall exercise reasonable
11 oversight and take reasonable actions to ensure compliance with such
12 contractual obligations.

13 F. A participating organization shall not sell or license
14 social care information without explicit written consent of the
15 individual. For the purposes of this subsection, consent shall mean
16 an act that clearly and conspicuously communicates the individual's
17 authorization of an act or practice that is made in the absence of
18 any mechanism that has the purpose or substantial effect of
19 obscuring, subverting, or impairing decision-making or choice to
20 obtain consent. The checking of a box or radio button on a website
21 does not constitute explicit written consent. Provided, nothing
22 within this act shall prohibit a participating organization from
23 selling aggregate social care information.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7123 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Nothing in this act shall be construed to supersede or preempt the applicability of the following:

1. The Health Insurance Portability and Accountability Act of 1996 (HIPAA);

2. The Health Information Technology for Economic and Clinical Health Act (HITECH);

3. The Family Educational Rights and Privacy Act;

4. Financial records covered by the Gramm-Leach-Bliley Act; or

5. Any governing state privacy laws.

B. Nothing in this act shall be construed to supersede, preempt, or alter rights and protections afforded under HIPAA or HITECH. Nothing in this act shall be construed as affecting the obligations of covered entities under existing HIPAA or HITECH regulations.

C. No provisions in this act relating to social care information apply to or alter the status of information considered protected health information (PHI) under HIPAA or HITECH. Nothing in this act shall be construed as affecting the ability of HIPAA or HITECH-covered entities to access, use, transmit, receive, or maintain PHI.

1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 7124 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 Nothing within this act shall be construed to authorize any
5 private right of action to enforce or seek damages under any
6 requirement of this act.

7 SECTION 6. This act shall become effective November 1, 2023.

8

9 59-1-7540 TJ 02/21/23

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24