

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 56th Legislature (2018)

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

By: Yen of the Senate

and

Derby of the House

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11                                   COMMITTEE SUBSTITUTE

12                   An Act relating to public health and safety; defining  
13 terms; requiring certain entities to establish,  
14 maintain and use an electronic prescribing system;  
15 providing standards for transmitting prescriptions;  
16 requiring prescribers and dispensers to use certain  
17 program for communicating and transmitting  
18 prescriptions; standardizing platform for  
19 transmission of prescriptions; directing providers,  
20 purchasers, prescribers and dispensers to use certain  
21 identifiers; authorizing pharmacists to forego  
22 prescription verification requirements; directing  
23 Commissioner of Health to develop and make available  
24 certain exception form; requiring certain form to be  
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

1 program; directing submission of certain report to  
2 the Legislature and Governor; requiring inclusion of  
3 certain quantifiable data in the report; providing  
4 for codification; and providing an effective date.

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

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

9 For the purposes of this act:

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

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

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

22 4. "E-prescribing" means the transmission using electronic  
23 media of prescription or prescription-related information between a  
24 prescriber, dispenser, pharmacy benefit manager or group purchaser,

1 either directly or through an intermediary, including an e-  
2 prescribing network. E-prescribing includes, but is not limited to,  
3 two-way transmissions between the point of care and the dispenser  
4 and two-way transmissions related to eligibility, formulary and  
5 medication history information;

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

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

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

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

5 9. "NCPDP" means the National Council for Prescription Drug  
6 Programs, Inc;

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

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

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

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

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

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

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

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

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

23 C. Providers, group purchasers, prescribers and dispensers  
24 shall use either HL7 messages or the NCPDP SCRIPT Standard to

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

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

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

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

- 1 8. Refill prescription response transactions;
- 2 9. Verification transactions;
- 3 10. Password change transactions;
- 4 11. Cancel prescription request transactions; and
- 5 12. Cancel prescription response transaction.

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

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

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

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

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

23 A pharmacist who receives a written, oral or facsimile  
24 prescription shall not be required to verify that the prescription

1 falls under one of the exceptions provided in this act. A  
2 pharmacist may continue to dispense medications from otherwise valid  
3 written, oral or facsimile prescriptions that are consistent with  
4 current laws and regulations.

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

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

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

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

23 A. The Commissioner of Health, in consultation with the State  
24 Board of Pharmacy, shall, no later than February 15, 2019, identify



1 an outline on how best to standardize drug prior authorization  
2 request transactions between providers and group purchasers with the  
3 goal of maximizing administrative simplification and efficiency in  
4 preparation for electronic transmissions.

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

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

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

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

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

1 initial standards and procedures for electronic prescribing. The  
2 pilot program shall study and measure the impact of electronic  
3 prescribing data transmission systems on patient safety and quality  
4 of care.

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

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

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

3 1. The number of prescribers participating in the pilot program  
4 who currently use electronic prescribing;

5 2. The number of pharmacies participating in the pilot program;

6 3. The number and percentage of prescriptions sent  
7 electronically;

8 4. Expenditures on the pilot program;

9 5. Data on whether and to what extent the pilot program  
10 achieved the following goals:

11 a. reduced medication errors,

12 b. reduced prescription fraud, and

13 c. reduced health care costs including, but not limited  
14 to, inpatient hospitalization, by reducing medication  
15 errors, increasing patient medication compliance and  
16 identifying medication contraindications.

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

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19 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 04/16/2018 - DO  
20 PASS, As Amended.

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