

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1567 By: Standridge of the Senate
3 and
4 Echols of the House
5
6

7 An Act relating to health information; providing
8 short title; creating the Transparency in Disclosure
9 of Health Information Act; providing definitions;
10 requiring certain entities to publicize certain
11 statement; providing standards for statement;
12 providing certain limitation on disclosure of health
information by certain entities; providing certain
interpretation; providing certain remedies; providing
certain standing; providing for codification; and
providing an effective date.

13 AMENDMENT NO. 1. Strike the title, enacting clause and entire bill
14 and insert

15 "An Act relating to health information; providing
16 short title; creating the Transparency in Disclosure
17 of Health Information Act; providing definitions;
18 requiring certain entities to publicize certain
19 statement; providing standards for statement;
20 providing certain limitation on disclosure of health
21 information by certain entities; providing certain
22 interpretation; providing certain remedies;
23 providing certain standing; providing for
24 codification; and providing an effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 7100.8 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A. This act shall be known and may be cited as the
5 "Transparency in Disclosure of Health Information Act".

6 B. As used in this act:

7 1. "Disclosure" means the release, transfer, provision of
8 access to or divulging in any manner of information outside the
9 entity holding the information;

10 2. "Health care operations" means any of the following
11 activities of the covered entity to the extent that the activities
12 are related to covered functions:

13 a. conducting quality assessment and improvement
14 activities; including outcomes evaluation and
15 development of clinical guidelines; provided, that the
16 obtaining of generalizable knowledge is not the
17 primary purpose of any studies resulting from such
18 activities; patient safety activities; population-
19 based activities relating to improving health or
20 reducing health care costs; protocol development; case
21 management and care coordination; and contacting of
22 health care providers and patients with information
23 about treatment alternatives and related functions
24 that do not include treatment,

1 b. reviewing the competence or qualifications of health
2 care professionals; evaluating practitioner and
3 provider performance; conducting training programs in
4 which students, trainees or practitioners in areas of
5 health care learn under supervision to practice or
6 improve their skills as health care providers;
7 training of non-health-care professionals;
8 accreditation, certification, licensing or
9 credentialing activities,

10 c. except as prohibited under federal law, underwriting,
11 enrollment, premium rating and other activities
12 related to the creation, renewal or replacement of a
13 contract of health insurance or health benefits and
14 ceding, securing or placing a contract for reinsurance
15 of risk relating to claims for health care, including
16 stop-loss insurance and excess-of-loss insurance,
17 provided that the requirements of federal law are met,
18 if applicable,

19 d. conducting or arranging for medical review, legal
20 services and auditing functions, including fraud and
21 abuse detection and compliance programs,

22 e. business planning and development, such as conducting
23 cost-management and planning-related analyses related
24 to managing and operating the entity, including

1 formulary development and administration and
2 development or improvement of methods of payment or
3 coverage policies, and

4 f. business management and general administrative
5 activities of the entity, including, but not limited
6 to:

7 (1) management activities relating to implementation
8 of and compliance with the requirements of the
9 Transparency in Disclosure of Health Insurance
10 Act,

11 (2) customer service, including the provision of data
12 analyses for policy holders, plan sponsors or
13 other customers; provided, that protected health
14 information is not disclosed to such policy
15 holder, plan sponsor or customer,

16 (3) resolution of internal grievances,

17 (4) the sale, transfer, merger or consolidation of
18 all or part of the covered entity with another
19 covered entity or an entity that following such
20 activity will become a covered entity and due
21 diligence related to such activity, and

22 (5) consistent with the applicable requirements of
23 federal law, creating de-identified health
24 information or a limited data set, and

1 fundraising for the benefit of the covered
2 entity;

3 3. "Health care provider" means a hospital, critical access
4 hospital, skilled nursing facility, comprehensive outpatient
5 rehabilitation facility, home health agency, hospice program or any
6 other person or organization that furnishes, bills, or is paid for
7 health care in the normal course of business;

8 4. "Health information" shall have the same meaning provided by
9 Section 7100.3 of Title 63 of the Oklahoma Statutes;

10 5. "Health information organization" means any entity or
11 organization that provides data transmission services with respect
12 to protected health information to a covered entity and that
13 requires access on a routine basis to such protected health
14 information;

15 6. "Health plan" means:

- 16 a. a group health plan,
- 17 b. a health insurance issuer,
- 18 c. a health maintenance organization,
- 19 d. Parts A or B of Title XVIII of the Social Security
20 Act,
- 21 e. Title XIX of the Social Security Act,
- 22 f. the Voluntary Prescription Drug Benefit Program
23 pursuant to Part D of Title XVIII of the Social
24 Security Act,

- 1 g. an issuer of a Medicare supplemental policy, as
2 defined by 42 U.S.C., Section 1395ss(g) (1),
- 3 h. an issuer of a long-term care policy, excluding a
4 nursing home fixed-indemnity policy,
- 5 i. an employee welfare benefit plan or any other
6 arrangement established or maintained for the purpose
7 of offering or providing benefits to the employees of
8 two or more employers,
- 9 j. the health care program for uniformed services
10 pursuant to Title 10 of the United States Code,
- 11 k. the veterans health care program pursuant to 38
12 U.S.C., Chapter 17,
- 13 l. any program provided by the Indian Health Care
14 Improvement Act, 25 U.S.C., Section 1601 et seq.,
- 15 m. an approved state child health plan under Title XXI of
16 the Social Security Act providing benefits and meeting
17 the requirements of 42 U.S.C., Section 1397,
- 18 n. the Medicare Advantage program pursuant to Part C of
19 Title XVIII of the Social Security Act,
- 20 o. a high-risk pool that is a mechanism established
21 pursuant to state law to provide health insurance
22 coverage of comparable coverage to eligible
23 individuals, or
24

1 p. any other individual or group plan, or combination of
2 individual or group plans, that provides or pays for
3 the cost of medical care;

4 7. "Individual" means the person who is the subject of
5 protected health information;

6 8. "Payment" means the activities undertaken by a health plan
7 to obtain premiums or to determine or fulfill its responsibility for
8 coverage and provision of benefits under the health plan or to
9 obtain or provide reimbursement for the provision of health care;
10 and

11 9. "Treatment" means the provision, coordination or management
12 of health care and related services by one or more health care
13 providers, including the coordination or management of health care
14 by a health care provider with a third party, consultation between
15 health care providers relating to a patient, or the referral of a
16 patient for health care from one health care provider to another.

17 SECTION 2. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 7100.9 of Title 63, unless there
19 is created a duplication in numbering, reads as follows:

20 A. A health information organization shall make publicly
21 available a current and accurate statement of its information-
22 handling practices pertaining to the disclosure of health
23 information by the health information organization to a health plan.
24 Such statement shall include identification of:

1 1. Any health plan the health information organization
2 discloses health information to; and

3 2. The purposes for which the health information organization
4 discloses health information to a health plan, including whether
5 disclosures are made for one or any combination of payment,
6 treatment or health care operations purposes.

7 B. A health information organization that discloses health
8 information to a health plan for payment or health care operations
9 purposes shall limit the disclosure of health information to the
10 minimum necessary amount to accomplish such purpose as provided by
11 federal law.

12 C. Subject to the minimum necessary requirements set forth by
13 subsection B of this act, a health information organization that
14 discloses health information to a health plan shall only disclose
15 health information related to individuals who are members or insured
16 by the health plan.

17 D. A health information organization violating the provisions
18 of the Transparency in Disclosure of Health Information Act shall be
19 deemed to engage in an unfair trade practice, as defined by the
20 Oklahoma Consumer Protection Act, and shall be subject to provisions
21 and remedies of the Oklahoma Consumer Protection Act. An individual
22 who has been subject to a violation of this act shall have standing
23 as a person and consumer under the Oklahoma Consumer Protection Act.

24 SECTION 3. This act shall become effective November 1, 2016."

1 Passed the House of Representatives the 31st day of March, 2016.

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4 Presiding Officer of the House of
Representatives

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6 Passed the Senate the ____ day of _____, 2016.

7
8
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2 BILL NO. 1567

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15 not include treatment,
- 16 b. reviewing the competence or qualifications of health
17 care professionals, evaluating practitioner and
18 provider performance, health plan performance,
19 conducting training programs in which students,
20 trainees or practitioners in areas of health care
21 learn under supervision to practice or improve their
22 skills as health care providers, training of non-
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4 contract of health insurance or health benefits and
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6 of risk relating to claims for health care, including
7 stop-loss insurance and excess of loss insurance,
8 provided that the requirements of federal law are met,
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- 10 d. conducting or arranging for medical review, legal
11 services and auditing functions, including fraud and
12 abuse detection and compliance programs,
- 13 e. business planning and development, such as conducting
14 cost-management and planning-related analyses related
15 to managing and operating the entity, including
16 formulary development and administration, development
17 or improvement of methods of payment or coverage
18 policies, and
- 19 f. business management and general administrative
20 activities of the entity, including, but not limited
21 to:
- 22 (1) management activities relating to implementation
23 of and compliance with the requirements of this
24 subchapter,

- 1 (2) customer service, including the provision of data
2 analyses for policy holders, plan sponsors or
3 other customers, provided that protected health
4 information is not disclosed to such policy
5 holder, plan sponsor or customer,
6 (3) resolution of internal grievances,
7 (4) the sale, transfer, merger or consolidation of
8 all or part of the covered entity with another
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10 activity will become a covered entity and due
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17 3. "Health care provider" means a hospital, critical access
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14 pursuant to Part D of Title XVIII of the Social
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- 20 i. an employee welfare benefit plan or any other
21 arrangement established or maintained for the purpose
22 of offering or providing benefits to the employees of
23 two or more employers,

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2 pursuant Title 10 of the United States Code,
3 k. the veterans health care program pursuant to 38
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8 the Social Security Act providing benefits and meeting
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16 Such statement shall include identification of:

17 1. Any health plan the health information organization
18 discloses health information to; and

19 2. The purposes for which the health information organization
20 discloses health information to a health plan, including whether
21 disclosures are made for one or any combination of payment,
22 treatment or health care operations purposes.

23 B. A health information organization that discloses health
24 information to a health plan for payment purposes shall limit the

1 disclosure of health information to the minimum necessary amount to
2 accomplish such purpose as provided by federal law.

3 C. Subject to the minimum necessary requirements set forth by
4 subsection B of this act, a health information organization that
5 discloses health information to a health plan shall only disclose
6 health information related to individuals who are members or insured
7 by the health plan.

8 D. A health information organization violating the provisions
9 of this act shall be deemed to engage in an unfair trade practice,
10 as defined by the Oklahoma Consumer Protection Act, and shall be
11 subject to provisions and remedies of the Oklahoma Consumer
12 Protection Act. An individual who has been subject to a violation
13 of this act shall have standing as a person and consumer under the
14 Oklahoma Consumer Protection Act.

15 SECTION 6. This act shall become effective November 1, 2016.

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1 Passed the Senate the 8th day of March, 2016.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2016.

7
8 _____
9 Presiding Officer of the House
10 of Representatives