

ENROLLED SENATE
BILL NO. 757

By: Burrage, Johnson
(Constance) and Adelson of
the Senate

and

Steele of the House

An Act relating to public health and safety; defining terms; creating the Health Information Infrastructure Advisory Board; specifying purpose of advisory board; requiring certain integration; directing the Oklahoma Health Care Authority to operate as a hub; requiring certain agreements; providing for membership on the advisory board; providing for certain vacancies; specifying the chair and staff of the advisory board; providing for voting on the advisory board; providing for travel reimbursement; amending 63 O.S. 2001, Section 1-1709, which relates to disclosure of patient information; adding city-county health departments to the list of entities which may receive certain information; 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 1-131 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Electronic medical record" or "EMR" means an electronic record of health-related information on an individual that can be

created, gathered, managed, and consulted by authorized clinicians and staff within one health care organization;

2. "Health data exchange" means record-level health data exchanged for the purpose of statistical data analysis, including, but not limited to, quality, expenditure, and utilization data, for the purpose of developing a uniform and routinely compiled dataset that will make possible the ongoing analysis, comparison, and evaluation of trends in the quality and delivery of health care services for the purpose of effective health care planning by public and private entities, cost containment, health facility development, and improving access to, and quality of care;

3. "Health information exchange" or "HIE" means the electronic movement of health-related information among organizations according to nationally recognized standards for treatment purposes;

4. "Health information technology" or "HIT" means technology that allows comprehensive management of medical information and its secure exchange between health care consumers and providers for treatment purposes; and

5. "Hub" means a registry, a data repository, or a patient identity manager.

B. 1. There is hereby created the "Health Information Infrastructure Advisory Board".

2. The purpose of the advisory board shall be to advise and assist the Oklahoma Health Care Authority in:

a. developing a strategy for the adoption and use of electronic medical records and health information technologies that is consistent with emerging national standards and promotes interoperability of health information systems. The strategy shall:

(1) be researched and contain the best practices in electronic medical records systems and health information technologies,

- (2) be designed to reduce medical errors and enable patients to make better decisions about their own health care by promoting secure access to medical records online, and
 - (3) assist in the design of the health information infrastructure roadmap, which shall contain the state plan for the exchange of health information,
- b. the determinations related to data elements to be collected, and
 - c. the governance structure and policies and procedures for the health information exchange, ensuring that the strategy and plan preserve the privacy and security of health information as required by state and federal law.

3. Duties of the advisory board shall not include the development of a health data exchange; however, key features of a health information exchange shall be designed to integrate with a state health data exchange.

4. The Authority shall operate as a hub for health information exchange between health related state agencies and other health information organizations. Information exchange shall be implemented through interagency agreements among all health related agencies. The agreement shall ensure, but shall not be limited to:

- a. confidentiality of information,
- b. funding and implementation of the plan, which may include phased-in implementation, and
- c. procedures for coordinating, monitoring, and improving data exchange that is compatible with current adopters of electronic medical record systems and health information technologies.

5. The advisory board shall consist of ten (10) members who shall be appointed by the directors of the following agencies and shall include, but not be limited to, individuals from:

- a. the Oklahoma Health Care Authority,
- b. the State Department of Health,
- c. the Department of Mental Health and Substance Abuse Services,
- d. the Department of Human Services,
- e. the State and Education Employees Group Insurance Board,
- f. the Insurance Department,
- g. the Department of Corrections,
- h. the State Department of Rehabilitative Services, and
- i. the City-County Health Departments.

6. Vacancies occurring in the advisory board shall be filled by appointment of the director of the represented agency.

7. The member from the Oklahoma Health Care Authority shall chair the advisory board, and the Authority shall staff the advisory board.

8. Each agency shall receive one vote and a majority of the members in attendance at a meeting shall be able to take action on behalf of the advisory board.

9. Members of the advisory board shall serve without compensation, but shall be reimbursed their actual and necessary travel expenses in accordance with the State Travel Reimbursement Act.

SECTION 2. AMENDATORY 63 O.S. 2001, Section 1-1709, is amended to read as follows:

Section 1-1709. Any authorized person, hospital, sanatorium, nursing home or rest home, or other organization may provide information, interviews, reports, statements, memoranda or other data relating to the condition and treatment of any person to any of the following for use in the course of studies for the purpose of reducing morbidity or mortality: The State Board of Health; the Oklahoma State Medical Association, or any committee or allied society thereof; the American Medical Association, or other national organization approved by the State Board of Health, or any committee or allied medical society thereof; ~~or~~ any in-hospital staff committee; or a city-county health department. No liability for damages or other relief shall arise or be enforced against any authorized person, institution or organization by reason of having provided such information or material, or by reason of having released or published the findings and conclusions of such groups to advance medical research and medical education, or by reason of having released or published generally a summary of such studies. The recipients shall use or publish such information or material only for the purpose of advancing medical research or medical education in the interest of reducing morbidity or mortality, except that a summary of such studies may be released by any such group for general publication. In all events, the identity of any person whose condition or treatment has been studied shall be confidential and shall not be revealed under any circumstances. Any information furnished shall not contain the name of the person upon whom information is furnished and shall not violate the confidential relationship of patient and doctor. All information, interviews, reports, statements, memoranda, or other data furnished by reason of this section, and any findings or conclusions resulting from such studies, are declared to be privileged communications which may not be used or offered or received in evidence in any legal proceeding of any kind or character, and any attempt to use or offer any such information, interviews, reports, statements, memoranda or other data, findings or conclusions, or any part thereof, unless waived by the interested parties, shall constitute prejudicial error in any such proceeding. Physicians and others appointed to hospital utilization review committees for the purpose of determining the optimum use of hospital services shall be immune from liability with respect to decisions made as to such utilization and actions thereunder so long as such physicians or others act in good faith; provided, however, that nothing in this section shall be construed

to relieve any patient's personal physician of any liability which he may have in connection with the treatment of such patient.

SECTION 1. This act shall become effective November 1, 2009.

Passed the Senate the 13th day of May, 2009.

Presiding Officer of the Senate

Passed the House of Representatives the 15th day of May, 2009.

Presiding Officer of the House
of Representatives