

## **Oklahoma Health Care Authority**

The Oklahoma Health Care Authority (OHCA) values your feedback and input. It is very important that you provide your comments regarding the proposed rule change by the comment due date. Comments can be submitted on the OHCA's [Proposed Changes Blog](#).

**OHCA COMMENT DUE DATE:** March 3, 2023

The proposed policy changes are currently in effect as Emergency Rules and must be promulgated as Permanent Rules. The proposed policy was presented at the September 6, 2022 Tribal Consultation. Additionally, this proposal was presented to the Medical Advisory Committee on September 8, 2022. Furthermore, this proposal will be presented at a Public Hearing scheduled for March 7, 2023. Finally, the proposed changes are scheduled to be presented as Permanent Rules to the OHCA Board of Directors on March 15, 2023.

**Reference:** APA WF # 22-16

**SUMMARY: Statewide HIE** — The proposed revisions will implement the changes required by OK Senate Bill 1369 to the Oklahoma statewide Health Information Exchange (HIE).

### **LEGAL AUTHORITY**

The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; the Oklahoma Health Care Authority Board; and Senate Bill 1369

### **RULE IMPACT STATEMENT:**

#### **STATE OF OKLAHOMA OKLAHOMA HEALTH CARE AUTHORITY**

**SUBJECT:** Rule Impact Statement  
APA WF # 22-16

#### **A. Brief description of the purpose of the rule:**

Emergency Rules were promulgated; however, the definition of health care provider was revised, the definition of health care facility and health care services was added, and the definition of health care provider organization was removed.

#### **B. A description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the cost of the proposed rule, and any information on cost impacts received by the agency from any private or public entities:**

All healthcare providers as defined within the rule and the citizens of Oklahoma will be affected by the proposed rule. No information on any cost impacts were received from any entity; however, there will be a cost for providers to connect to the statewide HIE.

- C. A description of the classes of persons who will benefit from the proposed rule:

The proposed rule change will benefit all healthcare providers as defined within the rule and the citizens of Oklahoma, by enhancing the structure of the statewide HIE by improving security of member information, coordination of member care, and the efficiency of health care delivery.

- D. A description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:

There is no probable economic impact and there are no fee changes associated with the rule change for the above classes of persons or any political subdivisions; however, there will be a cost for providers to connect to the statewide HIE.

- E. The probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated affect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency:

The proposed rules are budget neutral for the agency; however, there will be a cost for providers to connect to the statewide HIE.

- F. A determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:

The proposed rule changes will not have an economic impact on any political subdivision or require their cooperation in implementing or enforcing the rule changes; however, there will be a cost for providers to connect to the statewide HIE.

- G. A determination of whether implementation of the proposed rule will have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:

The agency does not anticipate that the proposed rule changes will have an adverse effect on small businesses; however, there will be a cost for providers to connect to the statewide HIE.

- H. An explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or non-regulatory methods or less intrusive methods for achieving the purpose of the proposed rule:

The agency has taken measures to determine that there are no other legal methods to achieve the purpose of the proposed rule. Measures included a formal public comment period and tribal consultation.

- I. A determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:

The proposed rule should have no adverse effect on the public health, safety or environment.

- J. A determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented:

The agency does not anticipate any detrimental effect on the public health and safety if the proposed rule is not passed.

- K. The date the rule impact statement was prepared and if modified, the date modified:

Prepared date: July 18, 2022

Modified: August 17, 2022 and August 25, 2022

## **TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE**

### **SUBCHAPTER 3. GENERAL PROVIDER POLICIES**

#### **PART 1. GENERAL SCOPE AND ADMINISTRATION**

##### **317:30-3-35. ~~Oklahoma State Health Information Network and Exchange (OKSHINE)~~ Statewide Health Information Exchange**

(a) **Authority.** This rule is promulgated under the authority granted in Title 63 of the Oklahoma Statutes Section 1-133 (63 O.S. § 1-133). This Section is intended to be read in conjunction with applicable Oklahoma statutes and federal law.

(b) **Applicability and purpose.**

(1) **Applicability.** This section shall apply to and govern the establishment and operation of the statewide health information exchange (HIE), ~~herein referred to as OKSHINE.~~

(2) **Purpose.** ~~OKSHINE is the state-designated organization that facilitates the exchange of health information to and from authorized individuals and health care organizations in the state for the purpose of improving health outcomes, as per 63 O.S. § 1-133. The Office of the State Coordinator for HIE is the office within the Oklahoma Health Care Authority (OHCA) that holds the power and duty to oversee the state-designated entity for health information exchange, as described under 63 O.S. § 1-133.~~

(c) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) ~~"OKSHINE" means an organization that oversees, governs, and facilitates health information exchange among health care providers that are not related health care organizations as defined in the Oklahoma Statutes, to improve the security of patient information, coordination of patient care, and the efficiency of health care delivery.~~

(2) ~~"Participant" means an organization, health care practitioner or institution, health plan,~~

or health care clearinghouse who has executed a written participation agreement (PA) and business associate agreement (BAA) with OKSHINE.

(3) **"Participant agreement"** means the agreement between OKSHINE and a participant which authorizes the participant to have access to OKSHINE and outlines the policies and procedures for access, protection, and use of the electronic protected health information.

(4) **"Oklahoma Statewide Health Information Exchange (OKHIE)"** means a certified HIE as referenced in 63 O.S. § 1-133 whose primary business activity is health information exchange.

(1) **"Health care facility"** means any public or private organization, corporation, authority, partnership, sole proprietorship, association, agency, network, joint venture, or other entity that is established and appropriately licensed in this state to administer or provide health care services. Health care facility includes but is not limited to hospitals, medical centers, ambulatory surgery centers, physicians' offices, clinics, pharmacies, laboratories, nursing homes, rehabilitation centers, home care agencies, hospices, and long-term care agencies.

(2) **"Health care provider"** means a health care facility or person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of business or practice of a profession.

(3) **"Health care services"** means any service provided by a health care provider, or by any individual working under the supervision of a health care provider, that relate to:

(A) The diagnosis, prevention, or treatment of any human disease or impairment; or

(B) The assessment or care of the health of human beings.

(4) **"Report data to"** means that health care providers shall establish a direct, secure connection to the state designated entity for HIE and submit data in the form and format as defined on the Office of the State Coordinator for HIE website.

(5) **"State designated entity (SDE)"** means the health information exchange organization designated by the State of Oklahoma under 63 O.S. § 1-133. The name and contact information for the state designated entity for HIE is found on the Office of the State Coordinator for HIE website.

(6) **"Utilize"** means to actively use the HIE services to securely access records during and/or in support of patient treatment or health care operations.

(d) **OKHIE Certification.** Per 63 O.S. § 1-133, an initial certification and an annual recertification will be required for health information exchanges to qualify as an OKHIE. In order to receive certification, the applying HIE must submit an application to the Oklahoma Health Care Authority (OHCA) and provide all requested documentation. The application and standards for certification shall be posted on the OHCA OKSHINE public website.

(1) The OHCA shall establish a health information exchange certification with input from stakeholders.

(2) Until such time as the health information exchange certification is established by the OHCA, an OKSHINE or an HIE organization that was previously certified by the Oklahoma Health Information Exchange Trust (OHIET) shall be deemed an OKHIE.

(3) An HIE must provide documentation of certification from OHIET to OHCA in order to receive initial OKHIE certification.

(e) **Fees.**

(1) **Certification fees.** Each health information exchange which applies for certification, will be required to pay annual certification/recertification fees. The OHCA will develop the

~~certification criteria and will publish the criteria and associated fees, when available, on the OHCA OKSHINE public website.~~

~~(2) **Participant fees.** Each participant, as defined in this section, will be required to pay an annual participation fee as outlined in the participant agreement. The OHCA will develop the criteria for the fees and will publish the criteria when available. The participant agreement and fee schedule will be posted on the OHCA OKSHINE public website.~~

**(d) Required participation.**

(1) By July 1, 2023, all health care providers as defined above and who are licensed by and located in the state of Oklahoma shall report data to and utilize the SDE.

(2) The state acknowledges that establishing the connection to the HIE can take substantial time to complete. A health care provider will be considered to have met the requirement to report data to the SDE as long as the provider is actively engaged with the HIE in the onboarding process of connecting to the HIE, and as reported by the SDE.

(3) In order to meet the requirement to utilize the SDE, each health care provider shall secure access to HIE services by the following:

(A) Completing and maintaining an active participation agreement with the SDE for HIE;

(B) Executing annually an order form electing at a minimum the set of core services relevant to the provider practice or organization; and

(C) Maintaining good standing as a participating organization in the SDE for HIE by remaining compliant with the terms and conditions, network policies and procedures, and paying all fees associated with the services elected on the order form.

(4) Each health care provider will provide a utilization report from the SDE to the Office of the State Coordinator for HIE on an annual basis. Utilization metrics and benchmarks will be determined annually by the Office of the State Coordinator for HIE in consultation with the board of directors of the SDE and will be published three (3) months prior to the commencement of each State Fiscal Year.

**(e) Hardship exemption.**

(1) The Office of the State Coordinator for HIE may allow exemptions from the requirement to report data to and utilize the SDE beginning July 1, 2023, on the basis of financial hardship, size, or technological capability of a health care provider or organization or such other bases as may be provided by rules promulgated by OHCA.

(2) Any health care provider as defined above that believes they will fall under hardship in order to meet the requirements to report data to and utilize the SDE must submit a request for exemption providing detailed justification as to the hardship they will sustain as specified on the Office of the State Coordinator for HIE website.

(3) The authorization of a hardship exemption does not exclude the provider from having to meet the requirements to report data to and utilize the SDE but will provide additional time for the provider to mitigate their hardship in doing so.