



HEALTHCARE ATTORNEYS

Karen S. Rieger
Healthcare Practice Chair

Kevin D. Gordon
Healthcare Litigation Practice Chair

Jennifer L. Ivester Berry

Laura Brookins

LeAnne Burnett

Jordan K. Field

Eric S. Fisher

Richard C. Ford

James H. Holloman, Jr.

Alison M. Howard

Christopher B. Keim

Michael S. Laird

Jay W. Larimore

Cori H. Loomis

Jasmine A. Majid

Robert McCampbell

Kenni B. Merritt

Brooke S. Murphy

Cherish K. Ralls

Gary C. Rawlinson

Mary Robertson

Malcolm E. Rosser IV

Timila S. Rother

David A. Shipley

Earl A. Skarky

Michael M. Stewart

Roger A. Stong

Rustin Strubhar

**OKLAHOMA STANDARD AUTHORIZATION
TO USE OR SHARE PROTECTED HEALTH
INFORMATION**

Introduction

On November 13, 2008, the Oklahoma Board of Health formally approved a new, uniform method for authorizing the release of protected health information in Oklahoma – the Oklahoma Standard Authorization to Use or Share Protected Health Information. The Board's decision culminated a two year process undertaken by a public/private health information collaborative operating under both presidential and gubernatorial executive orders. The purpose of the collaborative was to identify barriers to health information exchange and present solutions aimed at streamlining and facilitating exchange to improve the quality and delivery of care. The collaborative included input and legal analysis from several Crowe & Dunlevy attorneys, including Kevin D. Gordon and Christopher B. Keim, who were members of the Steering Committee, and Karen Rieger, who participated in the legal issues task force. In response to the collaborative's recommendations, the Oklahoma legislature passed Senate Bill 1420, otherwise known as the Oklahoma Health Information Exchange Act. Governor Brad Henry signed the Act into law during the summer of 2008.

The Oklahoma Health Information Exchange Act

The Oklahoma Health Information Exchange Act authorized the Board of Health to adopt a standard authorization form for health information exchange in Oklahoma. Additionally, the Act required the Board to develop both provider and patient instructions to accompany the form and explain its purpose and proper use. Most importantly, the Act requires health care entities to accept the form as a basis for disclosing protected health information, and contains protections for entities that release protected health information based upon the standard authorization form.

Required Acceptance of the Oklahoma Standard Authorization to Use or Share Protected Health Information

Although the Act does not require health care entities to adopt or use the form promulgated by the Board of Health, the Act does require them **to accept** the form as sufficient for the release of protected health information maintained by the entity. This requirement will represent a significant change for many health care entities, whose policies may currently require the use of the entity's authorization form for the release of protected health information.

Immunity for Release under Oklahoma Standard Authorization to Use or Share- Protected Health Information

To encourage widespread acceptance of the new authorization form, the Act provides civil immunity from state privacy or privilege based lawsuits to health care entities that disclose information under the new form and in accordance with the accompanying instructions. This grant of immunity offers significant protection and will likely serve as a leading incentive for health care entities to use and accept the new authorization form.

Oklahoma Standard Authorization Form and Related Instructions

Copies of the form are enclosed for review. For related instructions please visit the Healthcare Practice section on www.crowedunlevy.com. The Oklahoma State Department of Health will also provide access to the form and instructions in the near future on the department's website: www.health.ok.gov.

Questions or Further Information

The Oklahoma Health Information Exchange Act likely will have a substantial impact on Oklahoma's health care industry, changing the manner in which state health care entities disclose protected health information. If you have questions or concerns about the new standard authorization form, or desire our assistance in (i) assessing whether your business should adopt the form; (ii) implementing the form and its related instructions; or (iii) conducting training regarding the form and instructions to ensure civil immunity protection, please contact Karen S. Rieger at karen.rieger@crowedunlevy.com or (405) 235-7788, Kevin D. Gordon at kevin.gordon@crowedunlevy.com or (405) 239-6619, or another Firm attorney who typically handles your legal needs.