

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 833

By: Sparks of the Senate

and

Steele of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to public health and safety; amending  
11 63 O.S. 2001, Section 1-502.2, as amended by Section  
12 15, Chapter 168, O.S.L. 2004 (63 O.S. Supp. 2006,  
13 Section 1-502.1), which relates to certain  
confidential information; providing confidentiality  
for certain diseases; and providing an effective  
date.

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

17 SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-502.2, as  
18 amended by Section 15, Chapter 168, O.S.L. 2004 (63 O.S. Supp. 2006,  
19 Section 1-502.2), is amended to read as follows:

20 Section 1-502.2 A. Unless otherwise provided by law, all  
21 information and records which identify any person who has  
22 participated in a public health investigation or who may have any  
23 communicable or ~~venereal~~ noncommunicable disease which is required  
24 to be reported pursuant to Sections 1-501 through 1-532.1 of this

1 title ~~and~~ or information and records of any disease which are held  
2 or maintained by any state agency, health care provider or facility,  
3 physician, health professional, laboratory, clinic, blood bank,  
4 funeral director, third party payor, or any other agency, person, or  
5 organization in the state shall be confidential. Any information  
6 authorized to be released pursuant to paragraphs 1 through 8 of this  
7 subsection shall be released in such a way that no person can be  
8 identified unless otherwise provided for in such paragraph or by  
9 law. Such information shall not be released except under the  
10 following circumstances:

11 1. Release is made upon court order;

12 2. Release is made in writing, by or with the written consent  
13 of the person whose information is being kept confidential or with  
14 the written consent of the legal guardian or legal custodian of such  
15 person, or if such person is a minor, with the written consent of  
16 the parent or legal guardian of such minor;

17 3. Release is necessary as determined by the State Department  
18 of Health to protect the health and well-being of the general  
19 public. Any such order for release by the Department and any review  
20 of such order shall be in accordance with the procedures specified  
21 in Sections 309 through 323 of Title 75 of the Oklahoma Statutes.  
22 Only the initials of the person whose information is being kept  
23 confidential shall be on public record for such proceedings unless  
24 the order by the Department specifies the release of the name of

1 such person and such order is not appealed by such person or such  
2 order is upheld by the reviewing court;

3 4. Release is made of medical or epidemiological information to  
4 those persons who have had risk exposures pursuant to Section 1-  
5 502.1 of this title;

6 5. Release is made of medical or epidemiological information to  
7 health professionals, appropriate state agencies, or district courts  
8 to enforce the provisions of Sections 1-501 through 1-532.1 of this  
9 title and related rules and regulations concerning the control and  
10 treatment of communicable or ~~venereal~~ noncommunicable diseases;

11 6. Release is made of specific medical or epidemiological  
12 information for statistical purposes in such a way that no person  
13 can be identified;

14 7. Release is made of medical information among health care  
15 providers, their agents or employees, within the continuum of care  
16 for the purpose of diagnosis and treatment of the person whose  
17 information is released. This exception shall not authorize the  
18 release of confidential information by a state agency to a health  
19 care provider unless such release is otherwise authorized by this  
20 section; or

21 8. When the patient is an inmate in the custody of the  
22 Department of Corrections or a private prison or facility under  
23 contract with the Department of Corrections, and the release of the  
24 information is necessary:

1 a. to prevent or lessen a serious and imminent threat to  
2 the health or safety of a person or the public, and it  
3 is to a person or persons reasonably able to prevent  
4 or lessen the threat, including the target of the  
5 threat, or

6 b. for law enforcement authorities to identify or  
7 apprehend an individual where it appears from all the  
8 circumstances that the individual has escaped from a  
9 correctional institution or from lawful custody.

10 B. For the purposes of this section only, the words "written  
11 consent" shall mean that the person whose information is required to  
12 be kept confidential by this section or the person legally  
13 authorized to consent to release by this section has been informed  
14 of all persons or organizations to whom such information may be  
15 released or disclosed by the specific release granted. Releases  
16 granted pursuant to paragraph 2 of subsection A of this section  
17 shall include a notice in bold typeface that the information  
18 authorized for release may include records which may indicate the  
19 presence of a communicable or ~~venereal~~ noncommunicable disease ~~which~~  
20 ~~may include, but are not limited to, diseases such as hepatitis,~~  
21 ~~syphilis, gonorrhoea and the human immunodeficiency virus, also known~~  
22 ~~as Acquired Immune Deficiency Syndrome (AIDS).~~ Consent obtained for  
23 release of information, pursuant to paragraph 2 of subsection A of  
24 this section, shall not be considered valid unless, prior to

1 consent, the person consenting to the release was given notice of  
2 the provisions for release of confidential information pursuant to  
3 this section.

4 C. 1. The State Department of Health may convene a  
5 confidential meeting of a multidisciplinary team for recommendation  
6 on school placement of a student who is infected with the human  
7 immunodeficiency virus. The multidisciplinary team shall include,  
8 but not be limited to, the following:

- 9 a. the parent, parents, legal representative, or legal  
10 guardian or legal custodian of the student;
- 11 b. the physician of the student;
- 12 c. a representative from the superintendent's office of  
13 the affected school district;
- 14 d. a representative from the State Department of  
15 Education; and
- 16 e. a representative from the State Department of Health.

17 Each member of the team shall be responsible for protecting the  
18 confidentiality of the student and any information made available to  
19 such person as a member of the team. The multidisciplinary team  
20 shall be exempt from the requirements of Sections 301 through 314 of  
21 Title 25 of the Oklahoma Statutes and Sections 24A.1 through 24A.19  
22 of Title 51 of the Oklahoma Statutes.

23 2. Each member of the local school board having jurisdiction  
24 over the student shall also be responsible for protecting the

1 confidentiality of the student and any information made available to  
2 such person as a school board member.

3 D. The State Department of Health may convene a confidential  
4 meeting of a multidisciplinary advisory committee to make  
5 recommendations regarding the practice of health care workers who  
6 are infected with the human immunodeficiency virus (HIV) or  
7 hepatitis B (HBV), who may be performing exposure-prone procedures.  
8 The membership of the multidisciplinary advisory committee shall  
9 include, but not be limited to, the following:

- 10 1. The State Commissioner of Health or ~~her~~ designee;
- 11 2. Legal counsel to the State Commissioner of Health;
- 12 3. The state epidemiologist or ~~his~~ designee;
- 13 4. An infectious disease specialist with expertise in HIV/HBV  
14 infection; and
- 15 5. Two practicing health care workers from the same discipline  
16 as the HIV/HBV-infected health care worker.

17 In addition, the health care worker being discussed, and/or an  
18 advocate, and the personal physician of the health care worker being  
19 discussed shall be invited to the multidisciplinary advisory  
20 committee meeting. Discussion of the case shall be made without  
21 using the actual name of the health care worker. Each member of the  
22 multidisciplinary advisory committee shall be responsible for  
23 protecting the confidentiality of the HIV/HBV-infected health care  
24 worker and the confidentiality of any information made available to

1 such person as a member of the multidisciplinary advisory committee.  
2 The multidisciplinary advisory committee shall be exempt from the  
3 requirements of the Oklahoma Open Meeting Act and the Oklahoma Open  
4 Records Act.

5 E. Upon advice of the multidisciplinary advisory committee, the  
6 State Commissioner of Health, or her designee, may notify an  
7 appropriate official at the health care facility where the HIV/HBV-  
8 infected health care worker practices that ~~said~~ the health care  
9 worker is seropositive for HIV and/or HBV. Notification shall be  
10 made only when necessary to monitor the ability of the HIV/HBV-  
11 infected health care worker to comply with universal precautions and  
12 appropriate infection control practices, and/or to monitor the  
13 ongoing functional capacity of the health care worker to perform his  
14 or her duties. Notification shall occur through one of the  
15 following officials:

- 16 1. The facility administrator;
- 17 2. The hospital epidemiologist;
- 18 3. The ~~chairman~~ chair of the infection control committee of the  
19 facility; or
- 20 4. The medical chief of staff of the facility.

21 F. If the HIV/HBV-infected health care worker fails or refuses  
22 to comply with the recommendations of the multidisciplinary advisory  
23 committee, the State Commissioner of Health, or her designee, may  
24 take such actions as may be required to perform the duties imposed

1 by the laws of the State of Oklahoma, and may advise the appropriate  
2 licensing board.

3 G. Any person who negligently, knowingly or intentionally  
4 discloses or fails to protect medical or epidemiological information  
5 classified as confidential pursuant to this section, upon  
6 conviction, shall be guilty of a misdemeanor punishable by the  
7 imposition of a fine of not less than One Thousand Dollars  
8 (\$1,000.00) or by imprisonment in the county jail for not more than  
9 thirty (30) days, or by both such fine and imprisonment.

10 H. Any person who negligently, knowingly or intentionally  
11 discloses or fails to protect medical or epidemiological information  
12 classified as confidential pursuant to this section shall be civilly  
13 liable to the person who is the subject of the disclosure for court  
14 costs, attorney fees, exemplary damages and all actual damages,  
15 including damages for economic, bodily or psychological harm which  
16 is proximately caused by the disclosure.

17 SECTION 2. This act shall become effective November 1, 2007.

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19 51-1-7666 SAB 03/27/07

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