

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 928

By: Sparks

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5  
6 AS INTRODUCED

7 An Act relating to public health and safety; amending  
8 63 O.S. 2001, Section 1-502.2, as last amended by  
9 Section 6, Chapter 393, O.S.L. 2008 (63 O.S. Supp.  
10 2008, Section 1-502.2), which relates to confidential  
11 public health investigation information; modifying  
12 certain list of exceptions; requiring certain  
13 compliance; and providing an effective date.

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

15 SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-502.2, as  
16 last amended by Section 6, Chapter 393, O.S.L. 2008 (63 O.S. Supp.  
17 2008, Section 1-502.2), is amended to read as follows:

18 Section 1-502.2 A. Unless otherwise provided by law, all  
19 information and records ~~which identify~~ of any person who has  
20 participated in a public health investigation or who may have any  
21 communicable or noncommunicable disease which is required to be  
22 reported pursuant to Sections 1-501 through 1-532.1 of this title or  
23 information and records of any disease which are held or maintained  
24 by any state agency, health care provider or facility, physician,  
health professional, laboratory, clinic, blood bank, funeral

1 director, third party payor, or any other agency, person, or  
2 organization in the state shall be confidential. Any information  
3 authorized to be released pursuant to paragraphs 1 through 8 of this  
4 subsection shall be released in such a way that no person can be  
5 identified unless otherwise provided for in such paragraph or by  
6 law. Such information shall not be released except under the  
7 following circumstances:

8 1. Release is made upon court order;

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

14 3. Release is necessary as determined by the State Department  
15 of Health to protect the health and well-being of the general  
16 public. Any such order for release by the Department and any review  
17 of such order shall be in accordance with the procedures specified  
18 in Sections 309 through 323 of Title 75 of the Oklahoma Statutes.  
19 Only the initials of the person whose information is being kept  
20 confidential shall be on public record for such proceedings unless  
21 the order by the Department specifies the release of the name of  
22 such person and such order is not appealed by such person or such  
23 order is upheld by the reviewing court;

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1 4. Release is made of medical or epidemiological information to  
2 those persons who have had risk exposures ~~pursuant to Section 1-~~  
3 ~~502.1 of this title~~ or such person's health care provider;

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

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

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

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

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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, "written consent"  
11 means that the person whose information is required to be kept  
12 confidential by this section or the person legally authorized to  
13 consent to release by this section has been informed of all persons  
14 or organizations to whom such information may be released or  
15 disclosed by the specific release granted. Releases granted  
16 pursuant to paragraph 2 of subsection A of this section shall  
17 ~~include a notice in bold typeface that the information authorized~~  
18 ~~for release may include records which may indicate the presence of a~~  
19 ~~communicable or noncommunicable disease~~ comply with the requirements  
20 of 45 C.F.R., Section 164.508(c)(1) through (3). Consent obtained  
21 for release of information, pursuant to paragraph 2 of subsection A  
22 of this section, shall not be considered valid unless, prior to  
23 consent, the person consenting to the release was given notice of  
24 the provisions for release of confidential information pursuant to

1 this section. The provisions of this subsection shall not apply to  
2 written authorizations to disclose information to the Social  
3 Security Administration.

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 designee;
- 11 2. Legal counsel to the State Commissioner of Health;
- 12 3. The state epidemiologist or 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 designee may notify an appropriate  
7 official at the health care facility where the HIV/HBV-infected  
8 health care worker practices that the health care worker is  
9 seropositive for HIV and/or HBV. Notification shall be made only  
10 when necessary to monitor the ability of the HIV/HBV-infected health  
11 care worker to comply with universal precautions and appropriate  
12 infection control practices, and/or to monitor the ongoing  
13 functional capacity of the health care worker to perform his or her  
14 duties. Notification shall occur through one of the following  
15 officials:

- 16 1. The facility administrator;
- 17 2. The hospital epidemiologist;
- 18 3. The 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 designee may take  
24 such actions as may be required to perform the duties imposed by the

1 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, 2009.

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19 52-1-1576 JM 3/6/2009 7:41:31 AM

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