

1 ENGROSSED SENATE  
2 BILL NO. 858

By: Russell and Reynolds of the  
Senate

3 and

4 Ritze of the House  
5  
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7 An Act relating to firearm information; stating  
8 legislative findings; defining terms; providing  
9 guidelines for certain inquiries regarding firearms;  
10 providing exclusions; providing penalties; providing  
11 for codification; providing for noncodification; and  
12 providing an effective date.

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

14 SECTION 1. NEW LAW A new section of law not to be  
15 codified in the Oklahoma Statutes reads as follows:

16 The Legislature finds that:

17 1. Individuals have a right under the constitutions of this  
18 state and the United States to keep and bear arms, which arms  
19 include firearms and their ammunition;

20 2. An individual's decision to exercise this right is a private  
21 matter;

22 3. The law of this state generally prohibits the keeping of  
23 registries or lists of privately owned firearms;

24 4. Lawfully possessed, stored, and used firearms and ammunition  
are not a risk to public health;

1           5. Health care practitioners do not have any special expertise  
2 in the safe storage or use of firearms or ammunition merely by  
3 virtue of their status as health care practitioners, and to the  
4 degree health care practitioners have general advice to impart  
5 concerning firearms and ammunition, they may do so without knowing  
6 whether any particular patient actually possesses or uses these  
7 items;

8           6. Health care practitioners do not have a need to know whether  
9 a patient lawfully possess or uses firearms or ammunition unless the  
10 patient specifically exhibits symptoms of illness or injury that the  
11 health care practitioner could reasonably attribute to the  
12 possession or use of firearms or ammunition or unless the patient  
13 has expressed a desire to harm the patient's self or others;

14           7. Patients should not be compelled to participate in a health  
15 care practitioner's gathering of statistical or demographic  
16 information about the use, storage, and possession of firearms and  
17 ammunition for research or other purposes not directly related to  
18 the patient's own treatment;

19           8. A patient's decisions about the lawful possession or use of  
20 firearms or ammunition or about whether to disclose such decisions  
21 is not a proper basis for a health care practitioner to determine  
22 who the practitioner will or will not treat;

23           9. Patients have been denied care based on the refusal to  
24 answer unwarranted inquiries about constitutionally protected

1 | conduct related to firearms and ammunition, and such denials result  
2 | in an increase in health care costs and delays in access to needed  
3 | care; and

4 |       10. The Legislature intends with this act to ensure that  
5 | patients may obtain health care free from discrimination based on,  
6 | or unwarranted inquiry into, constitutionally protected conduct  
7 | involving firearms or ammunition and to ensure that health care  
8 | practitioners may still obtain information about a patient's  
9 | firearm- or ammunition-related activity that is directly relevant to  
10 | that patient's own treatment.

11 |       SECTION 2.       NEW LAW       A new section of law to be codified  
12 | in the Oklahoma Statutes as Section 1-124 of Title 63, unless there  
13 | is created a duplication in numbering, reads as follows:

14 |       A. For purposes of this section:

15 |       1. "Health care practitioner" has the same meaning as those  
16 | practitioners regulated pursuant to Title 59 of the Oklahoma  
17 | Statutes; and

18 |       2. "Patient" means a person under the care of or who seeks  
19 | professional services from a health care practitioner.

20 |       B. Except as provided in subsection D of this section, a health  
21 | care practitioner may not refuse to treat or to accept a referral  
22 | for treatment of a patient based on:

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1           1. The lawful ownership, possession, handling, storage,  
2 maintenance, or other legal conduct involving firearms or ammunition  
3 by the patient or a member of the patient's household; or

4           2. The patient's, and if the patient is a minor, the patient's  
5 parents' or guardians', refusal to disclose such information.

6           C. Except as provided in subsection D of this section, a health  
7 care practitioner who questions a patient, and if the patient is a  
8 minor, who questions the patient's parent or guardian about the  
9 ownership, possession, handling, storage, maintenance, or other  
10 conduct involving firearms or ammunition by the patient or a member  
11 of the patient's household shall first do the following:

12           1. Inform the patient, parent, or guardian that he or she will  
13 be asked about firearms and ammunition;

14           2. Inform the patient, parent, or guardian about the purpose of  
15 the question;

16           3. Inform the patient, parent, or guardian that he or she is  
17 not required to answer the question; and

18           4. Inform the patient, parent, or guardian that failure to  
19 answer the question will not result in refusal or termination of the  
20 patient's treatment with the health care practitioner.

21           D. The requirements of subsections B and C of this section  
22 shall not apply if:

23           1. The health care practitioner reasonably believes the patient  
24 is in immediate possession or control of a firearm or ammunition and

1 poses an imminent threat to the patient's self or another with such  
2 firearm or ammunition;

3 2. The patient has brought a firearm or ammunition into an area  
4 where such firearm or ammunition is prohibited;

5 3. The patient, and if the patient is a minor, the patient's  
6 parent or guardian, volunteers information about a firearm or  
7 ammunition without being asked about it; or

8 4. The health care practitioner reasonably and in good faith  
9 believes that disclosure of the requested information is necessary  
10 to diagnose or treat a specific illness or injury, but this  
11 exception shall not apply to a generalized belief that firearms are  
12 harmful to health or safety.

13 E. 1. The agency for Health Care Administration of this state  
14 may impose an administrative fine upon a health care practitioner  
15 who violates any provision of subsection C or D of this section.  
16 The fine shall not exceed Two Hundred Fifty Dollars (\$250.00) for  
17 nonwillful violations nor Five Hundred Dollars (\$500.00) for  
18 intentional and willful violations. Each intentional and willful  
19 violation constitutes a separate violation and is subject to a  
20 separate fine.

21 2. An administrative fine may be imposed by the appropriate  
22 regulatory board, or the State Department of Health if no such board  
23 exists, when a health care practitioner violates any provision of  
24 subsection C or D of this section. The fine shall not exceed Two

1 Hundred Fifty Dollars (\$250.00) for nonwillful violations nor Five  
2 Hundred Dollars (\$500.00) for willful violations. Each intentional  
3 and willful violation constitutes a separate violation and is  
4 subject to a separate fine.

5 3. A violation of any provision of subsection C or D of this  
6 section shall also subject the health care practitioner to  
7 appropriate discipline under their licensing authority.

8 SECTION 3. This act shall become effective November 1, 2011.

9 Passed the Senate the 9th day of March, 2011.

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Presiding Officer of the Senate

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13 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
14 2011.

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Presiding Officer of the House  
of Representatives

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