HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

HOUSE BILL 1397 By: Cox of the House

and

Jolley of the Senate

AS INTRODUCED

An Act relating to public health and safety; amending Section 54, Chapter 197, O.S.L. 2003 (63 O.S. Supp. 2010, Section 1-105e), which relates to the duties of the State Department of Health; adding duties of Department; amending Section 1, Chapter 101, O.S.L. 2006, as amended by Section 1, Chapter 119, O.S.L. 2008 (63 O.S. Supp. 2010, Section 1-105f), which relates to the Office of Accountability Systems; amending 63 O.S. 2001, Section 1-214, as last amended by Section 1, Chapter 198, O.S.L. 2010 (63 O.S. Supp. 2010, Section 1-214), which relates to city-county health department; permitting city-county health department to perform health-related services; permitting city-county health department to submit insurance claims; amending 63 O.S. 2001, Section 1-301, as amended by Section 1, Chapter 187, O.S.L. 2008 (63 O.S. Supp. 2010, Section 1-301), which relates to definitions; adding definition; amending 63 O.S. 2001, Section 1-304, which relates to the duties of the State Commissioner of Health; deleting certain duty; amending 63 O.S. 2001, Section 1-311, which relates to the filing of birth certificates; providing that birth certificates shall be filed with State Registrar; providing birth certificate process when delivering mother carries legal child of another woman; amending 63 O.S. 2001, Section 1-312, which relates to an infant of unknown parentage; amending 63 O.S. 2001, Section 1-316, which relates to new birth certificates; amending 63 O.S. 2001, Section 1-

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316a, which relates to heirloom birth certificates; providing heirloom birth certificate shall not be used as evidence of live birth nor identification purposes; amending 63 O.S. 2001, Section 1-318, which relates to fetal death certificates; removing provisions related to location of fetal death; amending 63 O.S. 2001, Section 1-319, which relates to burial permits; requiring transit permit to transport dead bodies by certain individuals; 63 O.S. 2001, Section 321, as amended by Section 61, Chapter 116, O.S.L. 2006 (63 O.S. Supp. 2010, Section 1-321), which relates to amendment of certificates; permitting Board to promulgate certain rules; amending 63 O.S. 2001, Section 1-323, as last amended by Section 8, Chapter 226, O.S.L. 2010 (63 O.S. Supp. 2010, Section 1-323), which relates to vital statistics records; amending Section 1, Chapter 384, O.S.L. 2003 (63 O.S. 2010, Section 1-324.1), which relates to the prohibition of certain acts regarding certain certificates; prohibiting certain act regarding certain certificates; modifying certain penalties; prohibiting certain acts regarding disinterment permits; providing penalties; amending 63 O.S. 2001, Section 1-325, which relates to fees for certain records; permitting fees to be paid by credit cards; amending 63 O.S. 2001, Section 1-329.1, which relates to permit for disposal of bodies; amending 63 O.S. 2001, Section 1-502.2, as last amended by Section 6, Chapter 393, O.S.L. 2008 (63 O.S. Supp. 2010, Section 1-502.2), which relates to the confidentiality of certain information; amending 63 O.S. 2001, Section 1-517, which relates to definitions; modifying certain terms; amending 63 O.S. 2001, Section 1-520, which relates to prohibiting physicians from making false discharge of certain persons; creating certain penalty; amending 63 O.S. 2001, Section 1-522, which relates to prohibiting certain treatment without a prescription; amending 63 O.S. 2001, Section 1-524, as last amended by Section 1, Chapter 346, O.S.L. 2003 (63 O.S. Supp. 2010, Section 1-524), which relates to required testing of persons in prison; amending Section 2, Chapter 346, O.S.L. 2003 (63 O.S. Supp. 2010, Section 524.1), which relates to the required examination of certain arrested persons; amending 63 O.S. 2001, Section 1-525, which relates to the prescriptions and

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records of certain persons; amending 63 O.S. 2001, Section 1-526, which relates to certain Board rules and regulations; amending 63 O.S. 2001, Section 1-527, which relates to reports of venereal disease; amending 63 O.S. 2001, Section 1-528, which relates to required instruction of certain persons by physician; amending 63 O.S. 2001, Section 1-529, which relates to certain investigations by health officers; amending 63 O.S. 2001, Section 1-530, which relates to the protection against spread of certain disease; amending 63 O.S. 2001, Section 1-531, which relates to the issuance of certain certificates; amending 63 O.S. 2001, Section 1-532, which relates to the publicity of information and reports of certain persons; amending 63 O.S. 2001, Section 1-532.1, which relates to the consent of a minor to be examined and treated for certain disease; amending 63 O.S. 2001, Section 1-534.1, which relates to the state plan for HIV services; deleting requirement that state plan be reviewed annually; amending 63 O.S. 2001, Section 1-873, which relates to minimum adult day care licensure requirements; providing certain licenses may be issued for more than twelve months; amending 63 O.S. 2001, Section 1-1412, which relates to false advertisement of drugs; amending 63 O.S. 2001, Section 1-1905, which relates to licenses for certain facilities; providing certain licenses may be issued for more than twelve months; amending 63 O.S. 2001, Section 946, which relates to exhuming of bodies; requiring certain court order be provided to the Department; amending 63 O.S. 2001, Section 2602, which relates to the right of minors to consent to certain services under certain conditions; repealing 63 O.S. 2001, Section 1-305, 1-306, 1-307, 1-308, 1-309 and 1-519, which relate to local registrars; providing for codification; and providing an effective date.

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

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SECTION 1. AMENDATORY Section 54, Chapter 197, O.S.L. 2003 (63 O.S. Supp. 2010, Section 1-105e), is amended to read as follows:

Section 1-105e. A. The State Department of Health shall:

1. Perform duties and responsibilities as directed by the State Commissioner of Health to ensure compliance with relevant provisions of this act; ~~and~~

2. Fix and collect fees for the certification of compliance of health maintenance organizations pursuant to the provisions of Section ~~7~~ 6907 of Title 36 of the Oklahoma Statutes ~~Health Maintenance Organization Act of 2003~~; and

3. Perform any and all health-related services, within the scope of practice, as prescribed by state law, by the State Board of Health, or by standards of care for medical services. When the Department provides a health-related service to any person covered by an applicable health insurance plan, the Department may submit a claim for said service to the appropriate insurance company, health maintenance organization or preferred provider organization. Upon receipt of the claim, said insurance company, health maintenance organization or preferred provider organization shall reimburse the Department for the service provided in accordance with the standard and customary rate schedule established by the plan. All health insurance plans doing business in Oklahoma shall recognize the

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public health service delivery model utilized by the Department, as an appropriate provider of services for reimbursement.

B. All actions of the Department shall be subject to the provisions of the Administrative Procedures Act.

C. Fees and insurance reimbursement payments collected shall be deposited in the Public Health Special Fund in the State Treasury.

SECTION 2. AMENDATORY Section 1, Chapter 101, O.S.L. 2006, as amended by Section 1, Chapter 119, O.S.L. 2008 (63 O.S. Supp. 2010, Section 1-105f), is amended to read as follows:

Section 1-105f. A. The Office of Accountability Systems of the State Department of Health (OAS) shall have the authority to:

1. Coordinate audits and investigations and make reports to the State Board of Health and State Commissioner of Health within the State Department of Health and State Health Officer relating to the administration of programs and operations of the State Department of Health;

2. Except as otherwise prohibited by current law, access all records, reports, audits, reviews, documents, papers, recommendations, or other material which relate to programs and operations with respect to which the Director of the Office of Accountability Systems has responsibilities;

3. Request assistance from other state, federal and local government agencies;

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4. Issue administrative subpoenas for the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence ~~that is in the custody or control of the State Department of Health~~;

5. Administer to or take from any current or former employee of the State Department of Health an oath, affirmation, or affidavit;

6. Receive and investigate complaints or information from an employee of the Department, service recipient or member of the public concerning the possible existence of an activity within the State Department of Health constituting a violation of law, rules or regulations, mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health and safety;

7. Cause to be issued on behalf of OAS credentials, including an identification card with the State Seal; and

8. Keep confidential all actions and records relating to OAS complaints.

B. It shall be the duty and responsibility of the Director and staff of the Office of Accountability Systems to:

1. Keep the State Board of Health and the State Commissioner of Health fully informed of matters relating to fraud, abuses, deficiencies and other serious problems of which the Director is aware relating to the administration of programs and operations

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within the State Department of Health. Further, the Director shall recommend corrective action concerning such matters and report to the State Board of Health and the State Commissioner of Health on the progress of the corrective matters;

2. Report to and be under the direct supervision of the State Board of Health. Unless otherwise directed by the State Board of Health, the Director shall report to and be under the general supervision of the State Commissioner of Health, but shall not be subject to supervision or report to any other State Department of Health employee. Unless otherwise instructed by the State Board of Health, staff of the Office of Accountability Systems and independent contractors performing internal investigative services for the Office of Accountability Systems shall be directly supervised by the Director of the Office of Accountability Systems and not subject to the supervision of or required to report to any other State Department of Health employee. Neither the State Commissioner of Health nor any other employee of the State Department of Health shall prevent, prohibit, or obstruct the Director from initiating, implementing or completing any investigation or from issuing any subpoena during the course of an investigation or audit regarding the State Department of Health; and

3. Report expeditiously to the appropriate law enforcement entity whenever the Director has reasonable grounds to believe that

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there has been a felonious violation of state or federal criminal law.

SECTION 3. AMENDATORY 63 O.S. 2001, Section 1-214, as last amended by Section 1, Chapter 198, O.S.L. 2010 (63 O.S. Supp. 2010, Section 1-214), is amended to read as follows:

Section 1-214. A. The board of county commissioners of any county and the governing body of any city which qualify under Section 1-210 of this title shall enter into an agreement providing for the creation of a city-county health department, and such contracting bodies shall by agreement provide for the method of operation thereof, the selection of a director of such department, and the proportionate share of personnel and/or money that each shall contribute for the operation and support of such department.

B. Unless an agreement made pursuant to subsection A of this section specifically provides otherwise, any judgment against the city-county health department or the city-county board of health shall be treated as a judgment against the county and may be paid from a sinking fund established pursuant to Section 28 of Article X of the Oklahoma Constitution in the manner that other judgments against the county are paid.

C. Unless an agreement made pursuant to subsection A of this section specifically provides otherwise, a city-county health department shall have the power to own, acquire, lease, or dispose

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of real property in the performance of local public health functions, duties, and responsibilities.

D. The qualifications of the director shall be determined by the city-county board of health, with the advice of the State Commissioner of Health, and subject to approval by the governing body of the city and the board of county commissioners of the county. The director, with the approval of the city-county board of health, the board of county commissioners of the county, and the governing body of the city, or the city manager in cities having a managerial form of government, shall appoint other personnel of the department.

E. The employees of a city-county health department shall possess minimum qualifications as set forth in a system of personnel administration delineating job specifications and a compensation plan adopted by the city-county board of health, and approved by the State Commissioner of Health, the board of county commissioners and the governing body of the city. By March 1, 1991, the city-county health department shall establish a personnel, merit and promotion system which shall be approved by the Commissioner of Public Health. The employees shall also be eligible for membership in any life or health insurance plan of the county and the county retirement program, subject to the same conditions or restrictions that apply to county employees. Any state employees officed or located at or

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assigned to a city-county health department shall be subject to the state system of personnel administration and shall be eligible for membership in the state employees insurance and retirement programs.

F. Such city-county health department shall, under the supervision of the director, enforce and administer all municipal and county ordinances, rules and regulations, and all state laws, and rules and regulations of the State Board of Health pertaining to public health matters in the jurisdiction where it is created, or in any area where it has jurisdiction to operate by agreement.

G. A city-county health department may perform any and all health-related services, within the scope of practice, as prescribed by law, by the city-county board of health, or by standards of care for medical services. When a city-county health department provides a health-related service to any person covered by an applicable health insurance plan, the city-county health department may submit a claim for said service to the appropriate insurance company, health maintenance organization or preferred provider organization. Upon receipt of the claim, said insurance company, health maintenance organization or preferred provider organization shall reimburse the city-county health department for the service provided in accordance with the standard and customary rate schedule established by the plan. All health insurance plans, doing business in Oklahoma, shall recognize the public health service delivery

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model utilized by the city-county health department, as an appropriate provider of services for reimbursement. All insurance reimbursement payments collected shall become a part of the general revenue of the unit of government levying the same.

SECTION 4. AMENDATORY 63 O.S. 2001, Section 1-301, as amended by Section 1, Chapter 187, O.S.L. 2008 (63 O.S. Supp. 2010, Section 1-301), is amended to read as follows:

Section 1-301. As used in this article:

1. "Vital statistics" means records of birth, death, fetal death and data related thereto;

2. "System of vital statistics" means the registration, collection, preservation, amendment and certification of vital statistics records, and activities related thereto, including the tabulation, analysis and publication of statistical data derived from such records;

3. "Filing" means the presentation of a certificate, report or other record provided for in this article, of a birth, death, fetal death or adoption, for registration by the State Commissioner of Health;

4. "Registration" means the acceptance by the State Commissioner of Health and the incorporation in his official records of certificates, reports or other records provided for in this article, of births, deaths, fetal deaths or adoptions;

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5. "Live birth" means the complete expulsion or extraction from the mother of a product of human conception, irrespective of the duration of pregnancy, which, after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached;

6. “Stillbirth” or “stillborn child” means a fetal death;

7. “Certificate of birth resulting in stillbirth” means a certificate issued to memorialize a stillborn child;

8. "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception after a period of gestation as prescribed by the State Board of Health. The death is indicated by the fact that, after such expulsion or extraction, the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord or definite movement of voluntary muscles;

9. "Dead body" means an individual who is determined to be dead pursuant to the provisions of the Uniform Determination of Death Act;

10. "Final disposition" means the burial, interment, cremation, or other disposition of a dead body or fetus;

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11. "Physician" means a person who is a member of the class of persons authorized to use the term “physician” pursuant to Section 725.2 of Title 59 of the Oklahoma Statutes; ~~and~~

12. "Institution" means any establishment, public or private, which provides inpatient medical, surgical or diagnostic care or treatment, or nursing, custodial or domiciliary care, to two or more unrelated individuals, or to which persons are committed by law; and

13. "Disinterment" means the recovery of human remains by exhumation or disentombment. "Disinterment" does not include the raising and lowering of remains to accommodate two interments within a single grave and does not include the repositioning of an outside burial container that encroaches on adjoining burial space.

SECTION 5. AMENDATORY 63 O.S. 2001, Section 1-304, is amended to read as follows:

Section 1-304. (a) The State Commissioner of Health shall:

(1) administer and enforce this article and the rules and regulations issued hereunder, and issue instructions for the efficient administration of the statewide system of vital statistics.

(2) direct and supervise the statewide system of vital statistics and be custodian of its records.

(3) ~~direct, supervise and control the activities of local registrars.~~

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~~(4)~~ prescribe and distribute such forms as are required by this article and the rules and regulations issued hereunder.

~~(5)~~ (4) prepare and publish reports of vital statistics of this state, and such other reports as may be required by law.

(b) The Commissioner may delegate such functions and duties vested in ~~him~~ the Commissioner to employees of the State Department of Health and to the local registrars as ~~he~~ the Commissioner deems necessary or expedient.

SECTION 6. AMENDATORY 63 O.S. 2001, Section 1-311, is amended to read as follows:

Section 1-311. A. A certificate of birth for each live birth which occurs in this state shall be filed with the ~~local registrar of the district in which the birth occurs~~ State Registrar, within seven (7) days after the birth~~; provided, that when a birth occurs on a moving conveyance, a birth certificate shall be filed in the district in which the child was first removed from the conveyance~~.

B. When a birth occurs in an institution, the person in charge of the institution or a designated representative shall obtain the personal data, prepare the certificate, and secure the signatures required by the certificate ~~and file the certificate with the local registrar~~. The physician in attendance shall certify to the facts of birth and provide the medical information required by the certificate within five (5) days after the birth.

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C. When a birth occurs outside an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

1. The physician in attendance at or immediately after the birth;

2. Any other person in attendance at or immediately after the birth; or

3. The father, the mother, or, in the absence or inability of the father or mother, the person in charge of the premises where the birth occurred and present at the birth.

D. 1. If the mother was married at the time of conception and birth, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined otherwise by a court of competent jurisdiction or a husband's denial of paternity form has been filed along with an affidavit acknowledging paternity, in which case the name of the father as determined by the court or affidavit acknowledging paternity shall be entered.

2. If the mother was not married at the time of conception and birth, the name of the father shall be entered on the certificate of birth only if:

a. a determination of paternity has been made by an administrative action through the Department of Human

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Services or a court of competent jurisdiction, in which case the name of the father shall be entered, or

b. the mother and father have signed an affidavit acknowledging paternity pursuant to Section 1-311.3 of this title, or substantially similar affidavit from another state and filed it with the State Registrar of Vital Statistics.

E. Either of the parents of the child shall sign the certificate of live birth worksheet to attest to the accuracy of the personal data entered thereon, in time to permit its filing within the seven (7) days prescribed in this section.

F. If the live birth results from a process in which the delivering mother was carrying the child of another woman by way of a prearranged legal contract, the original birth certificate shall be filed with the personal information of the woman who delivered the child. A new birth certificate will be placed on file once the State Registrar receives both a court order and a completed form prescribed by the State Registrar which identifies the various parties and documents the personal information of the intended parents necessary to complete the new birth certificate.

SECTION 7. AMENDATORY 63 O.S. 2001, Section 1-312, is amended to read as follows:

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Section 1-312. (a) Whoever assumes the custody of a living infant of unknown parentage shall report, on a form and in the manner prescribed by the State Commissioner of Health within seven (7) days to the ~~local registrar of the district in which the child was found~~ State Registrar, the following information:

(1) the date and place of finding.

(2) sex, color or race, and approximate age of child.

(3) name and address of the persons or institution with whom the child has been placed for care.

(4) and other data required by the Commissioner.

(b) The place where the child was found shall be entered as the place of birth and the date of birth shall be determined by approximation.

(c) A report registered under this section shall constitute the certificate of birth for the infant.

(d) If the child is identified and a certificate of birth is found or obtained, any report registered under this section shall be sealed and filed and may be opened only by order of a court of competent jurisdiction.

SECTION 8. AMENDATORY 63 O.S. 2001, Section 1-316, is amended to read as follows:

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Section 1-316. A. The State Commissioner of Health shall establish a new certificate of birth for a person born in this state, when the Commissioner receives the following:

1. An adoption certificate as provided in the Oklahoma Adoption Act, or a certified copy of the decree of adoption together with the information necessary to identify the original certificate of birth and to establish a new certificate of birth; except that a new certificate of birth shall not be established if so requested by the court decreeing the adoption, the adoptive parents, or the adopted person; and

2. A request that a new certificate be established and such evidence as required by regulation proving that such person has been legitimated, or that a court of competent jurisdiction has determined the paternity of such a person.

B. When a new certificate of birth is established, the actual place and date of birth shall be shown. It shall be substituted for the original certificate of birth:

1. Thereafter, the original certificate and the evidence of adoption, paternity, or legitimation shall not be amended, nor shall it be subject to inspection except upon order of a court of competent jurisdiction or as otherwise specifically provided by law; and

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2. Upon receipt of notice of annulment of adoption, the original certificate of birth shall be restored to its place in the files and the new certificate and evidence shall not be subject to inspection except upon order of a court of competent jurisdiction. The original certificate shall be restored and may be amended in accordance with Section 1-321 of this title.

SECTION 9. AMENDATORY 63 O.S. 2001, Section 1-316a, is amended to read as follows:

Section 1-316a. A. ~~By November 1, 2001, the~~ The State Department of Health shall provide for the issuance of an heirloom birth certificate. The Department shall design the form of the heirloom birth certificate with the advice and assistance of the Oklahoma Arts Council and may promote and sell copies of the certificate. An heirloom birth certificate ~~may contain the same information as, and may have the same effect of, a certified copy of the birth record~~ shall not be used as evidence of live birth nor identification purposes.

B. The Department shall prescribe a fee for the issuance of an heirloom birth certificate in an amount that does not exceed Thirty-five Dollars ($35.00).

C. Proceeds from the sale of heirloom birth certificates shall be used by the Child Abuse Training and Coordination Program within the State Department of Health to provide training and technical

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assistance to judges, prosecutors, and members of multidisciplinary child abuse teams who intervene in circumstances of child abuse~~, provided, the Department may retain an amount not to exceed Ten Dollars ($10.00) from the fee to cover the cost of a standard birth certificate~~.

SECTION 10. AMENDATORY 63 O.S. 2001, Section 1-318, is amended to read as follows:

Section 1-318. (a) A fetal death certificate for each fetal death which occurs in this state shall be filed with the ~~local registrar of the district in which the delivery occurred~~ State Registrar, within three (3) days after such delivery ~~and prior to removal of the fetus, and shall be registered with such registrar if it has been completed and filed in accordance with this section; provided that,~~

~~(1) if the place of fetal death is unknown, a fetal death certificate shall be filed in the registration district in which a dead fetus was found, within three (3) days after the occurrence; and~~

~~(2) if a fetal death occurs on a moving conveyance, a fetal death certificate shall be filed in the registration district in which the fetus was first removed from such conveyance~~.

(b) The funeral director or person acting as such who first assumes custody of a fetus shall file the fetal death certificate.

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In the absence of such a person, the physician or other person in attendance at or after the delivery shall file the certificate of fetal death. He shall obtain the personal data from the next of kin or the best qualified person or source available. He shall complete the certificate as to personal data and deliver the certificate to that person responsible for completing the medical certification of cause of death within twenty-four (24) hours after delivery.

(c) The medical certification shall be completed and signed within forty-eight (48) hours after delivery by the physician in attendance at or after delivery, except when inquiry into the cause of death is required by Section 938 of this title.

SECTION 11. AMENDATORY 63 O.S. 2001, Section 1-319, is amended to read as follows:

Section 1-319. A. <u>No dead body shall be transported within this state by any person other than a licensed funeral director, licensed embalmer, licensed emergency medical services, medical examiner, or agent of a licensed funeral director or licensed embalmer until they first obtain a transit permit issued by the State Registrar of Vital Records.</u>

<u>B.</u> A burial transit permit issued under the laws of another state which accompanies a dead body or fetus brought into this state shall be authority for final disposition of the body or fetus in this state.

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~~No person in charge of any premises on which interments are made shall inter or permit the interment of any dead body or fetus unless it is accompanied by such burial transit permit.~~

~~B.~~ A permit for disinterment and reinternment shall be required prior to disinterment of a dead body or fetus except as authorized by regulation or otherwise provided by law. Such permit shall be issued by the State ~~Commissioner of Health~~ Registrar to a licensed funeral director, embalmer, or other person acting as such, upon proper application.

SECTION 12. AMENDATORY 63 O.S. 2001, Section 1-321, as amended by Section 61, Chapter 116, O.S.L. 2006 (63 O.S. Supp. 2010, Section 1-321), is amended to read as follows:

Section 1-321. (a) A certificate or record registered under this article may be amended only in accordance with this article and regulations thereunder adopted by the State Board of Health to protect the integrity and accuracy of vital statistics records.

(b) A certificate that is amended under this section shall be marked "amended", except as provided in subsection (d) of this section. The date of amendment and a summary description of the evidence submitted in support of the amendment shall be endorsed on or made a part of the record. The Board shall prescribe by regulation the conditions under which additions or minor corrections

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shall be made to birth certificates within one (1) year after the date of birth without the certificate being considered as amended.

(c) Upon receipt of a certified copy of a court order, from a court of competent jurisdiction, changing the name of a person born in this state and upon request of such person or his parent, guardian, or legal representative, the State Commissioner of Health shall amend the certificate of birth to reflect the new name.

(d) When a child is born out of wedlock, the Commissioner shall amend a certificate of birth to show paternity, if paternity is not currently shown on the birth certificate, in the following situations:

(1) Upon request and receipt of a sworn acknowledgment of paternity of a child born out of wedlock signed by both parents; or

(2) Upon receipt of a certified copy of a court order establishing paternity.

(e) For a child born out of wedlock, the Commissioner shall also change the surname of the child on the certificate:

(1) To the specified surname upon receipt of acknowledgment of paternity signed by both parents or upon receipt of a certified copy of a court order directing such name be changed. Such certificate amended pursuant to this subsection shall not be marked "amended"; or

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(2) To the surname of the mother on the birth certificate in the event the acknowledgment of paternity is rescinded.

(f) The State Board of Health shall have the power and duty to promulgate rules as follows:

(1) When the State Registrar has received false information regarding the identity of a parent; and

(2) When the State Registrar has received a request to change the gender on a birth record following gender reassignment surgery.

SECTION 13. AMENDATORY 63 O.S. 2001, Section 1-323, as last amended by Section 8, Chapter 226, O.S.L. 2010 (63 O.S. Supp. 2010, Section 1-323), is amended to read as follows:

Section 1-323. A. To protect the integrity of vital statistics records, to insure their proper use, and to insure the efficient and proper administration of the vital statistics system, it shall be unlawful for any person to permit inspection of, or to disclose information contained in, vital statistics records, or to copy or issue a copy of all or part of any such record except to the person who is the subject of the record or in such person's interest unless ordered to do so by a court of competent jurisdiction~~; provided, however, that death certificates shall be issued upon request and the payment of applicable fees as provided in Section 1-325 of this Code~~. Certified copies of birth certificates and death certificates shall be provided without cost and without a court order to the

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Attorney General or to any district attorney upon request in the course of a criminal investigation.

B. The State Commissioner of Health may authorize the disclosure of data contained in vital statistics records for public health surveillance or research purposes.

C. The State Department of Health shall transmit to the Department of Public Safety~~,~~:

1. At the end of each quarter year, a list of all registered deaths which have occurred during such period of time. Upon receipt of such list the Department of Public Safety shall use such list solely to update Department of Public Safety records and to cancel the driver license for those deceased individuals with a valid Oklahoma driver license at the time of death;

2. At the end of each month, a report of all registered deaths that resulted from a motor vehicle collision which have occurred during such period of time. The report shall be used by the Department solely for the purpose of statistical analysis and reporting; and

3. Upon written request from the Department, a death certificate. The certificate shall be used solely by the Fatality Analysis Reporting System (FARS) Analyst of the Oklahoma Highway Safety Office to populate the federal FARS database.

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D. Each month, the Commissioner shall authorize the transmission to the Oklahoma Health Care Authority of a certified list of all registered deaths of residents of this state that have occurred within the state for the immediately preceding month. The Oklahoma Health Care Authority shall use the transmitted list to ascertain the names of those individuals participating in the state Medicaid program who are deceased, and shall thereafter terminate such deceased person's enrollment in the state Medicaid program.

E. ~~Information in vital statistics records indicating that a birth occurred out of wedlock shall not be disclosed except as provided by rule or upon order of a court of competent jurisdiction.~~

~~F.~~ For the purpose of assisting in the location and recovery of missing children, information pertaining to birth certificates and requests for copies of birth certificates shall be provided to the Oklahoma State Bureau of Investigation pursuant to the provisions of Section 1-323.1 of this title and Section 150.12A of Title 74 of the Oklahoma Statutes.

~~G.~~ F. The Commissioner shall authorize the transmission of death certificates to the Department of Labor for the purpose of the Department of Labor conducting a census of total occupational injuries and illnesses. The Department shall transmit to the Department of Labor statistics of fatal occupational injuries that shall include the following:

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1. Name of the deceased;

2. Date of death;

3. Sex;

4. Race;

5. Age;

6. Birth date;

7. Social security number;

8. Whether an autopsy was conducted;

9. Month of the accident; and

10. Whether decedent was of Hispanic origin.

H. The Department of Labor shall be required to protect the integrity of the vital statistics records to the same extent required of the Department pursuant to this section.

SECTION 14. AMENDATORY Section 1, Chapter 384, O.S.L. 2003 (63 O.S. 2010, Section 1-324.1), is amended to read as follows:

Section 1-324.1 A. It shall be unlawful for any person to commit any of the following specified acts in relation to birth, death or stillbirth certificates issued by this state:

1. Create, issue, present or possess a fictitious birth, death or stillbirth certificate;

2. Apply for a birth, death or stillbirth certificate under false pretenses;

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3. Alter information contained on a birth, death or stillbirth certificate;

4. Obtain, display or represent a birth certificate of any person as one's own by any person, other than the person named on the birth certificate;

5. Obtain, display or represent a fictitious death or stillbirth certificate for the purpose of fraud; ~~or~~

6. Make a false statement or knowingly conceal a material fact or otherwise commit fraud in an application for a birth, death or stillbirth certificate; or

7. Knowingly presenting a false or forged certificate for filing.

B. Except as otherwise provided in subsection C of this section, it is a felony for any employee or person authorized to issue or create a birth, death or stillbirth certificate or related record under this title to knowingly issue such certificate or related record to a person not entitled thereto, or to knowingly create or record such certificate bearing erroneous information thereon.

C. A violation of any of the provisions of this section shall constitute a ~~misdemeanor for a first offense and, upon conviction, shall be punishable by a fine not exceeding Ten Thousand Dollars ($10,000.00). Any second or subsequent offense shall constitute a~~

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~~felony and, upon conviction, shall be punishable by a fine of Ten Thousand Dollars ($10,000.00) or imprisonment in the State Penitentiary for a term of not more than two (2) years, or by both such fine and imprisonment~~ felony.

D. Notwithstanding any provision of this section, the State Commissioner of Health or a designated agent, upon the request of a chief administrator of a health or law enforcement agency, may authorize the issuance, display or possession of a birth, death or stillbirth certificate, which would otherwise be in violation of this section, for the sole purpose of education with regard to public health or safety; provided, however, any materials used for such purposes shall be marked "void".

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-324.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any person to commit any of the following specified acts in relation to disinterment permits issued by this state:

1. Create, issue, or present a fictitious disinterment permit;

2. Apply for a disinterment permit under false pretenses;

3. Alter information contained on a disinterment permit;

4. Obtain, display or represent a disinterment permit for the purpose of fraud;

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5. Make a false statement or knowingly conceal a material fact or otherwise commit fraud in an application for a disinterment permit; or

6. Reinter the remains in a location other than that specified on the permit.

B. A violation of any of the provisions of this section shall constitute a misdemeanor for a first offense and, upon conviction, shall be punishable by a fine not exceeding Ten Thousand Dollars ($10,000.00). Any second or subsequent offense shall constitute a felony and, upon conviction, shall be punishable by a fine of up to Ten Thousand Dollars ($10,000.00) or imprisonment in the custody of the Department of Corrections for a term of not more than two (2) years, or both.

SECTION 16. AMENDATORY 63 O.S. 2001, Section 1-325, is amended to read as follows:

Section 1-325. The State Board of Health shall prescribe the fees to be paid for certified copies of certificates or records, or for a search of the files or records when no copy is made.

The collection of such fees may be accomplished by acceptance of cash, money orders, <u>credit cards,</u> organization or personal checks; in the event money orders or checks are proved to be noncollectible, neither the Board of Health, the Commissioner of Health, nor any of the employees of the Department of Health will be held responsible

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and personally liable; it is further required that no additional certified copies of records may be delivered to persons on whom noncollectible drafts remain outstanding.

A search and a verification of birth facts shall be furnished free of charge to any person volunteering for enlistment into a branch of the Armed Forces of the United States, upon written request therefor by an officer of the Armed Forces representing the interests of such person who shall be volunteering for service.

SECTION 17. AMENDATORY 63 O.S. 2001, Section 1-329.1, is amended to read as follows:

Section 1-329.1 Until a permit for disposal has been issued in accordance with this section, no dead human body whose death occurred within the State of Oklahoma shall be cremated, buried at sea, or made unavailable for further pathologic study by other recognized means of destruction or dissolution of such remains.

When the person legally responsible for disposition of a dead human body, whose death occurred or was pronounced within this state, desires that the body be cremated, buried at sea, or made unavailable for further pathologic study by other recognized means of destruction or dissolution of such remains, that person shall complete an application-permit form for such procedure provided by the Office of the Chief Medical Examiner. The Office of the Chief Medical Examiner shall charge a fee of One Hundred Dollars ($100.00)

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for each cremation permit issued. The Medical Examiner shall be notified, as required in Section 938 of this title. He shall perform the required investigation and shall issue a valid death certificate as required by Section 947 of this title and execute the permit in accordance with rules established by the Office of the Chief Medical Examiner. In order to be valid each permit must contain an individual number assigned to the particular permit by the Office of the Chief Medical Examiner. A copy of the application-permit form and the original death certificate shall be filed with the ~~local registrar of vital statistics of the registration district in which the death occurred or was pronounced~~ State Registrar. The original application-permit form shall be filed by the funeral director with the Office of the Chief Medical Examiner. Such filing shall occur or be postmarked within forty-eight (48) hours of the death.

If death occurred or was pronounced outside the geographic limits of the State of Oklahoma and the body is brought into this state for such disposal, a transit permit or a permit for removal, issued in accordance with the laws and regulations in force where the death occurred shall authorize the transportation of the body into or through this state and shall be accepted in lieu of a certificate of death as required above. A valid permit issued for disposal of such body in accordance with the laws in the

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jurisdiction where the body died or death was pronounced shall be authority for cremation or burial at sea or to make the body otherwise unavailable for further pathologic study by other recognized means of destruction or dissolution of such remains.

SECTION 18. AMENDATORY 63 O.S. 2001, Section 1-502.2, as last amended by Section 6, Chapter 393, O.S.L. 2008 (63 O.S. Supp. 2010, Section 1-502.2) is amended to read as follows:

Section 1-502.2 A. Unless otherwise provided by law, all information and records ~~which identify~~ concerning any person who has participated in a public health investigation or who may have any communicable or noncommunicable disease which is required to be reported pursuant to Sections 1-501 through 1-532.1 of this title or information and records of any disease which are held or maintained by any state agency, health care provider or facility, physician, health professional, laboratory, clinic, blood bank, funeral director, third party payor, or any other agency, person, or organization in the state shall be confidential. Any information obtained pursuant to the requirements of Sections 1-501 through 1-532.1 of this title shall not be required to be produced pursuant to the Oklahoma Open Records Act. Any information authorized to be released pursuant to paragraphs 1 through 8 of this subsection shall be released in such a way that no person can be identified unless otherwise provided for in such paragraph or by law. Such

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information shall not be released except under the following circumstances:

1. Release is made upon court order;

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

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

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

5. Release is made of medical or epidemiological information to health professionals, appropriate state agencies, or district courts

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to enforce the provisions of Sections 1-501 through 1-532.1 of this title and related rules and regulations concerning the control and treatment of communicable or noncommunicable diseases;

6. Release is made of specific medical or epidemiological information for statistical purposes whether within the State of Oklahoma or throughout the United States, in such a way that no person can be identified;

7. Release is made of medical information among health care providers, their agents or employees, within the continuum of care for the purpose of diagnosis and treatment of the person whose information is released~~. This exception shall not authorize the release of confidential information by a state agency to a health care provider unless such release is otherwise authorized by this section~~ whether within the State of Oklahoma or throughout the United States; or

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

a. to prevent or lessen a serious and imminent threat to the health or safety of a person or the public, and it is to a person or persons reasonably able to prevent

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or lessen the threat, including the target of the threat, or

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

B. For the purposes of this section only, "written consent" means that the person whose information is required to be kept confidential by this section or the person legally authorized to consent to release by this section has been informed of all persons or organizations to whom such information may be released or disclosed by the specific release granted. ~~Releases granted pursuant to paragraph 2 of subsection A of this section shall include a notice in bold typeface that the information authorized for release may include records which may indicate the presence of a communicable or noncommunicable disease.~~ Consent obtained for release of information, pursuant to paragraph 2 of subsection A of this section, shall not be considered valid unless, prior to consent, the person consenting to the release was given notice of the provisions for release of confidential information pursuant to this section. The provisions of this subsection shall not apply to written authorizations to disclose information to the Social Security Administration.

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

a. the parent, parents, legal representative, or legal guardian or legal custodian of the student;

b. the physician of the student;

c. a representative from the superintendent's office of the affected school district;

d. a representative from the State Department of Education; and

e. a representative from the State Department of Health.

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

2. Each member of the local school board having jurisdiction over the student shall also be responsible for protecting the confidentiality of the student and any information made available to such person as a school board member.

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

1. The State Commissioner of Health or designee;

2. Legal counsel to the State Commissioner of Health;

3. The state epidemiologist or designee;

4. An infectious disease specialist with expertise in HIV/HBV infection; and

5. Two practicing health care workers from the same discipline as the HIV/HBV-infected health care worker.

In addition, the health care worker being discussed, and/or an advocate, and the personal physician of the health care worker being discussed shall be invited to the multidisciplinary advisory committee meeting. Discussion of the case shall be made without using the actual name of the health care worker. Each member of the multidisciplinary advisory committee shall be responsible for protecting the confidentiality of the HIV/HBV-infected health care worker and the confidentiality of any information made available to such person as a member of the multidisciplinary advisory committee.

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The multidisciplinary advisory committee shall be exempt from the requirements of the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

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

1. The facility administrator;

2. The hospital epidemiologist;

3. The chair of the infection control committee of the facility; or

4. The medical chief of staff of the facility.

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

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

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

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

SECTION 19. AMENDATORY 63 O.S. 2001, Section 1-517, is amended to read as follows:

Section 1-517. For the purposes of the following sections of this article:

(a) The term ~~"venereal disease"~~ "sexually transmitted infection (STI)" means syphilis, gonorrhea, ~~chancroid, granuloma inguinale, lymphogranuloma venereum~~ chlamydia, human immunodeficiency virus

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(HIV)/acquired immune deficiency syndrome (AIDS), and any other disease which may be transmitted from any person to any other person through or by means of ~~sexual intercourse and found and declared by medical science or accredited schools of medicine to be infectious or contagious; and is hereby declared to be communicable and dangerous to the public health~~ any form of sexual contact.

(b) The term "infected person" means any individual, either sex, who may be carrying the organism or is afflicted with any ~~venereal disease~~ STI.

(c) The term "dealer" means any person who may handle, for sale, any medicinal remedies or supposed remedies for ~~venereal diseases~~ an STI, and the agents, clerks and employees of any such person; and any person who may profess or claim to treat or cure, by the use of medicine or otherwise, any ~~venereal disease~~ sexually transmitted infection (STI), and ~~his~~ the agents, clerks and employees.

(d) The term "physician" shall include reputable physicians who have complied with all the requirements of law regulating the practice of their respective schools of medicine, and duly licensed by such law to practice medicine in their respective schools, or surgery, or both, and no other person.

SECTION 20. AMENDATORY 63 O.S. 2001, Section 1-520, is amended to read as follows:

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Section 1-520. Any physician who shall, after having knowledge or information that any person is or may be an infected person, sell, give or furnish to such infected person, or to any other person for such infected person, a discharge from treatment, or written instrument or statement pronouncing such infected person cured, before such infected person is actually cured of such ~~venereal disease~~ sexually transmitted infection (STI), shall be guilty of a misdemeanor. Provided, however, that no person who is infected with ~~a venereal disease~~ an STI but who has received treatment adequate to render ~~him~~ the person noninfectious shall be denied a permit to work, because of ~~his~~ the infection, in those categories of employment where permits to work are required by state law or local ordinance.

SECTION 21. AMENDATORY 63 O.S. 2001, Section 1-522, is amended to read as follows:

Section 1-522. It shall be unlawful for any dealer to treat or offer to treat any infected person, or to sell, furnish or give to any infected person, or to any other person whomsoever, any medicines of any kind that may be advertised or used for treatment of ~~venereal diseases~~ (STI), before requiring such person to produce and file with such dealer a proper prescription for such medicine, issued and signed by a physician, which prescription shall be by the dealer kept on file for a period of one (1) year from the date of

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~~his~~ the person receiving the same, and subject, at all reasonable hours, to the inspection of the State Commissioner of Health or local health officer.

SECTION 22. AMENDATORY 63 O.S. 2001, Section 1-524, as last amended by Section 1, Chapter 346, O.S.L. 2003 (63 O.S. Supp. 2010, Section 1-524), is amended to read as follows:

Section 1-524. A. The keeper of any prison or penal institution in this state shall cause to be examined every person confined in such prison or penal institution, to determine whether such person is an infected person.

B. Any licensed physician may examine persons who are arrested by lawful warrant for prostitution, or other sex crimes not specified in Section ~~2~~ 1-524.1 of this ~~act~~ title, for the purpose of determining if they are infected with a ~~venereal disease~~ sexually transmitted infection (STI) or a communicable disease including, but not limited to, the human immunodeficiency virus (HIV). For purposes of expediting such examination, in counties with a population of greater than four hundred thousand (400,000), the county sheriff or the chief of police of any municipality with a population of greater than two hundred thousand (200,000) that is located within such county and that has a municipal court of record shall notify the city-county health department serving the county of any person who has been arrested by county or city officers for

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prostitution. Any such examination shall be made subsequent to arrest and if the examination is for the human immunodeficiency virus, upon order of the court issued at the initial appearance of the arrested person. Every person shall submit to the examination and shall permit specimens to be taken for laboratory examinations. Such person may be detained until the results of the examination are known. The examination shall be made by a licensed physician. A determination as to whether or not the person is infected shall not be based on any prior examination. Any person found to be infected with a ~~venereal disease~~ sexually transmitted infection (STI) shall be treated by the State Commissioner of Health or local health officer, or a physician of such person's own choice, until such person is noninfectious or dismissed by the Commissioner or local health officer or physician. In the event a person infected with a ~~venereal disease~~ sexually transmitted infection (STI) refuses or fails to submit to treatment, then such person may be quarantined for the purpose of treatment, and a report thereof shall be made to the Commissioner.

C. For purposes of this section, the term "initial appearance" shall refer to the first court appearance of an individual, in person or by closed circuit television, before a magistrate on a presentment, indictment or preliminary information on a felony offense.

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SECTION 23. AMENDATORY Section 2, Chapter 346, O.S.L. 2003 (63 O.S. Supp. 2010, Section 1-524.1), is amended to read as follows:

Section 1-524.1 A. A licensed physician shall examine persons who are arrested by lawful warrant for the offense of first or second degree rape, forcible sodomy or the intentional infection or attempt to intentionally infect a person with the human immunodeficiency virus for the purpose of determining if the person is infected with a ~~venereal disease~~ sexually transmitted infection (STI), including, but not limited to, the human immunodeficiency virus (HIV). For purposes of expediting such examination, in counties with a population of greater than four hundred thousand (400,000), the county sheriff or the chief of police of any municipality with a population of greater than two hundred thousand (200,000) that is located within such county and that has a municipal court of record shall notify the city-county health department serving the county of any person who has been arrested by county or city officers for such offense. Any such examination shall be made subsequent to arrest as provided in this section. Every person shall submit to the examination and shall permit specimens to be taken for laboratory examinations. Such person may be detained until the results of the examination are known. A determination as to whether or not the person is infected shall not

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be based on any prior examination. Any person found to be infected with a ~~venereal disease~~ sexually transmitted infection (STI) shall be treated by ~~the State Commissioner of Health or local health officer, or~~ a physician of such person's own choice, until such person is noninfectious or dismissed by the Commissioner or local health officer or physician. The costs of such treatment shall be the responsibility of the person who is examined and tested and the court shall order the person to pay such costs. In the event a person infected with a ~~venereal disease~~ sexually transmitted infection (STI) refuses or fails to submit to treatment, then such person may be quarantined for the purpose of treatment, and a report thereof shall be made to the Commissioner.

B. The district attorney shall file a motion for a court-ordered examination and testing of the person arrested for the offenses specified in subsection A of this section at the time the criminal charges are filed or the court may provide a standing order for such examination and testing which shall issue automatically at the time of arrest for the offenses specified in subsection A of this section.

C. Any peace officer in this state upon the arrest of a person within six (6) hours or less of the actual offense of first or second degree rape, forcible sodomy or intentional infection or attempt to intentionally infect a person with the human

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immunodeficiency virus shall immediately deliver and submit the person for a rapid test for human immunodeficiency virus (HIV) without a court order, if a rapid test site is available. If the rapid HIV test results are positive the physician examining the victim of such offense shall be immediately notified and the physician shall immediately provide the victim with preventive treatment, if the victim can be treated within the medically proscribed period for preventive measures.

D. The examination and testing required by this section shall not be for evidentiary purposes and shall be expedited and conducted solely to screen for and identify the need for the victim's treatment due to potential exposure to ~~venereal diseases~~ sexually transmitted infections (STIs). A confirmation examination and test may be conducted following any examination or test yielding a positive result that is not conclusive of the presence of the human immunodeficiency virus (HIV) or other ~~venereal diseases~~ sexually transmitted infection (STIs).

E. The court shall include the following provisions in its order and shall not include the name or address of the alleged victim:

1. A list of specific examinations and tests, including, but not limited to: blood tests for human immunodeficiency virus (HIV), hepatitis B, hepatitis C, ~~and~~ syphilis, ~~and cultures or smears for~~ gonorrhea ~~and~~, chlamydia, and visual examinations for evidence of

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genital herpes and genital warts for which examinations and tests are available;

2. A provision requiring the physician, clinic or hospital which provides the examination and testing to immediately notify the district attorney's office, through the Victim Witness Coordinator, when the test and examination results have been completed;

3. A provision requiring copies of the examination report and test results be forwarded by the physician, clinic or hospital that conducted such examination and tests to the designated physician or counseling site as made known to the Victim Witness Coordinator by the victim, or if not specified by the victim then copies of the reports and results shall be forwarded to the Victim Witness Coordinator. Results of examinations and tests shall be forwarded within three (3) days of completion of the examination or testing;

4. A provision that the victim be notified within three (3) days of the receipt of the examination report and test results by the designated physician or counseling site as designated by the victim or the Victim Witness Coordinator, if no designation has been made by the victim;

5. A provision directing the offender and victim to be treated for infection as indicated in any positive examination and test result; and

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6. A provision directing the facility having custody of the arrested person to be responsible for the costs of examination and tests; provided, however, that the court may order reimbursement of such costs at the time of sentencing.

F. Upon notification that the results of the examination and tests are completed, the Victim Witness Coordinator shall instruct the physician, clinical laboratory or hospital that completed such results to forward copies of the results according to the victim's designation or, if no designation has been made, forward copies to the Victim Witness Coordinator's office. The Victim Witness Coordinator shall notify the victim's designated professional that the results are being forwarded and instruct the victim to set a time to receive the results in person.

G. When the examination and test results indicate infection of any ~~venereal disease~~ sexually transmitted infection (STI), the victim shall be treated by the State Commissioner of Health or local health officer, or a physician of the victim's own choice, until noninfectious or dismissed by the Commissioner, local health officer or physician.

H. All examinations and testing shall be performed by a licensed physician and/or clinical laboratory or hospital. The test forms shall include the words "Sex Crime" to expedite handling and shall include a criminal case number, if known.

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I. If the arrested person refuses to be examined and tested upon arrest, the court shall issue an order for such examination and test at the initial appearance of the person arrested.

J. The cost of examination and testing authorized by this section shall be the responsibility of the facility having custody of the person at the time of arrest. The court shall order the defendant to reimburse such facility at the time of sentencing for all actual costs associated with examination and testing required by this section. No cost of any kind shall be incurred by any victim of such crimes for testing, obtaining the results of tests, or for treatment required by a victim due to a positive result for a test for ~~venereal disease~~ a sexually transmitted infection (STI) resulting from an offense specified in this section.

K. For purposes of this section, the term "initial appearance" shall refer to the first court appearance of an individual, in person or by closed circuit television, before a magistrate on a presentment, indictment or preliminary information on a felony offense.

SECTION 24. AMENDATORY 63 O.S. 2001, Section 1-525, is amended to read as follows:

Section 1-525. A. Except as otherwise provided by law, the prescription and records required by the foregoing provisions to be filed and kept shall not be exposed to any person other than the

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State Commissioner of Health or local health officer, or when properly ordered by a court of competent jurisdiction to be used as evidence in such court, and no information whatever shall be given to any person concerning any infected person except to appropriate persons for use in the proper courts of this state. Provided, that records of diagnosis and treatment may be transmitted to physicians and to health authorities in this and other states upon written request of the person affected. Provided further, results of examinations conducted on persons arrested by lawful warrant for the offense of first or second degree rape, forcible sodomy, or intentional infection or attempted infection of a person with the human immunodeficiency virus, shall be provided to the alleged victim of the crime upon the request of the victim, the parent of the victim if the victim is a minor, or upon request of the legal guardian or custodian of the victim. The name of the arrested and examined person shall not be disclosed on the transmitted record. The State Department of Health shall provide to the victims the positive test results. The Department shall provide free testing to the alleged victim for any ~~venereal~~ sexually transmitted infection (STI) or communicable disease for which the arrestee tests positive, as indicated in the transmitted record of diagnosis. Such testing shall be accompanied with pretest and post-test counseling. Such counseling shall include the provision of information to the victim

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or the parent, legal guardian or custodian of the victim concerning the venereal or communicable disease indicated in the transmitted record and the location of public and private facilities in the vicinity offering tests and counseling for persons who have the ~~venereal~~ sexually transmitted infection (STI) or communicable disease.

B. The State Board of Health shall promulgate rules and regulations for the examination authorized or required by Section 1-524 of this title and for the release of records containing results of examinations authorized by subsection A of this section. The rules and regulations shall establish procedural guidelines which respect the rights of the person arrested for the alleged offense and the victim of the alleged offense.

SECTION 25. AMENDATORY 63 O.S. 2001, Section 1-526, is amended to read as follows:

Section 1-526. The State Board of Health shall make all rules and regulations for the prevention and cure, and to prevent the spread, of ~~venereal diseases~~ sexually transmitted infections (STIs), which it deems necessary for the control of ~~venereal diseases~~ STIs.

SECTION 26. AMENDATORY 63 O.S. 2001, Section 1-527, is amended to read as follows:

Section 1-527. Any physician who makes a diagnosis or treats a case of ~~venereal disease~~ a sexually transmitted infection (STI), and

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every superintendent or manager of a hospital, dispensary or charitable or penal institution in which there is a case of ~~venereal disease~~ an STI, shall report such case immediately, in writing, to the State Commissioner of Health, or the local health officer, in the same manner as other communicable diseases are reported, in forms to be prescribed and furnished by the Commissioner.

SECTION 27. AMENDATORY 63 O.S. 2001, Section 1-528, is amended to read as follows:

Section 1-528. (a) It shall be the duty of every physician who examines or treats a person having a ~~venereal disease~~ sexually transmitted infection (STI) to instruct ~~him~~ that person in measures preventing the spread of such disease and of the necessity for treatment until cured.

(b) If an attending physician or other person knows or has good reason to suspect that a person having a ~~venereal disease~~ sexually transmitted infection (STI) is so conducting ~~himself~~ as to expose other persons to infection, or is about to so conduct ~~himself~~, ~~he~~ the person shall notify the local health officer of the name and address of the diseased person and the essential facts in the case.

SECTION 28. AMENDATORY 63 O.S. 2001, Section 1-529, is amended to read as follows:

Section 1-529. All local health officers shall use every available means to ascertain the existence of, and to investigate

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all cases of, ~~venereal disease~~ sexually transmitted infection (STI) within their respective jurisdictions, and to ascertain the sources of such infections; and shall make examination of any person reported two or more times as a suspected source of ~~venereal infection~~ an STI.

SECTION 29. AMENDATORY 63 O.S. 2001, Section 1-530, is amended to read as follows:

Section 1-530. (a) Upon receipt of a report of a case of ~~venereal disease~~ sexually transmitted infection (STI), the local health officer shall institute measures, which may include quarantine, for protection of other persons from infection by ~~such venereally diseased~~ a person infected with an STI.

(b) The State Board of Health shall adopt rules and regulations for the quarantine of persons infected with a ~~venereal disease~~ sexually transmitted infection (STI), to prevent the spread of ~~venereal disease~~ sexually transmitted infection (STI).

(c) Boards of county commissioners and governing boards of all incorporated towns and cities may provide suitable places for the detention of persons who may be subject to quarantine and who should be segregated.

SECTION 30. AMENDATORY 63 O.S. 2001, Section 1-531, is amended to read as follows:

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Section 1-531. It shall be unlawful for physicians, health officers, and other persons to issue certificates of freedom from ~~venereal disease~~ sexually transmitted infection (STI), except as authorized by law and the rules and regulations of the State Board of Health.

SECTION 31. AMENDATORY 63 O.S. 2001, Section 1-532, is amended to read as follows:

Section 1-532. All information and reports concerning persons infected with ~~venereal diseases~~ sexually transmitted infections (STIs) shall be inaccessible to the public, except insofar as publicity may attend the performance of duties imposed by the laws of the state.

SECTION 32. AMENDATORY 63 O.S. 2001, Section 1-532.1, is amended to read as follows:

Section 1-532.1 Any person, regardless of age, has the capacity to consent to examination and treatment by a licensed physician for any ~~venereal disease~~ sexually transmitted infection (STI).

SECTION 33. AMENDATORY 63 O.S. 2001, Section 1-534.1, is amended to read as follows:

Section 1-534.1 A. The State Department of Health shall be the lead agency for the coordination of programs and services related to the Human Immunodeficiency Virus (HIV).

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B. On or before January 1, 1994, the State Department of Health shall submit a State Plan for the Prevention and Treatment of Acquired Immune Deficiency Syndrome (AIDS) to the Governor, the President Pro Tempore of the Oklahoma State Senate, the Speaker of the Oklahoma House of Representatives, the chairmen of the appropriate committees of the Senate and the House of Representatives, and the chief executive officer and members of the governing bodies of each agency affected by the State Plan. Copies of the State Plan for the Prevention and Treatment of AIDS shall be available to members of the Oklahoma Legislature and the general public upon request.

C. The State Plan for the Prevention and Treatment of AIDS shall be prepared jointly by the State Department of Health, the Department of Human Services, the State Department of Education, and the Department of Mental Health and Substance Abuse Services in collaboration with other appropriate public and private agencies and organizations.

~~D. The State Plan for the Prevention and Treatment of AIDS shall be reviewed annually by the entities responsible for the preparation of the plan and modified as necessary and appropriate. On or before October 1 of each year the State Department of Health shall prepare a report of the annual review, including any modifications to the State Plan and any recommendations for the~~

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~~continued development of programs and services for the prevention and treatment of AIDS. The annual report shall be submitted and made available in the same manner as the State Plan, as provided in subsection B of this section.~~

SECTION 34. AMENDATORY 63 O.S. 2001, Section 1-873, is amended to read as follows:

Section 1-873. A. The State Board of Health, with the advice of the Long-Term Care Facility Advisory Board, created pursuant to Section 1-1923 of ~~Title 63 of the Oklahoma Statutes~~ this title, shall define minimum adult day care licensure requirements and rules including standards for:

1. Health and social services which may be provided to participants;

2. The range of services to be provided by a center based on the type of participants to be served;

3. Staff to participant ratios;

4. Staff and volunteer qualifications;

5. Staff training;

6. Food services;

7. Participant records and care plans;

8. Antidiscrimination policies;

9. Sanitary and fire standards; and

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10. Any other requirements necessary to ensure the safety and well-being of frail elderly and disabled adults.

B. Centers to be licensed shall include all adult day care centers. Sheltered workshops and senior recreational centers which do not receive participant fees for services are not required to be licensed. It shall be unlawful to operate a center without first obtaining a license for such operation as required by the Adult Day Care Act, regardless of other licenses held by the operator. Organizations operating more than one center shall obtain a license for each site.

C. The license for operation of a center shall be issued by the State Department of Health. The license shall:

1. Not be transferable or assignable;

2. Be posted in a conspicuous place on the licensed premises;

3. Be issued only for the premises named in the application; and

4. Expire ~~on July 31 of each year~~ twelve (12) months from the date of issuance, provided an initial license shall expire one hundred eighty (180) days after the date of issuance. Licenses may be issued for a period of more than twelve (12) months, but not more than twenty-four (24) months, for the licensing period immediately following November 1, 2011, in order to permit an equitable distribution of license expiration dates to all months of the year.

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D. A center shall meet the safety, sanitation and food service standards of the State Department of Health.

E. Local health, fire and building codes relating to adult day care centers shall be classified as an education use group.

F. The issuance or renewal of a license after notice of a violation has been sent shall not constitute a waiver by the State Department of Health of its power to subsequently revoke the license or take other enforcement action for any violations of the Adult Day Care Act committed prior to issuance or renewal of the license.

SECTION 35. AMENDATORY 63 O.S. 2001, Section 1-1412, is amended to read as follows:

Section 1-1412. (a) An advertisement of a drug, device, or cosmetic shall be deemed to be false if it is false or misleading in any particular.

(b) For the purposes of this article, the advertisement of a drug or device representing it to have any effect in albuminuria, appendicitis, arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholecystitis, diabetes, diphtheria, dropsy, erysipelas, gallstone, heart and vascular diseases, high blood pressure, mastoiditis, measles, meningitis, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis (infantile paralysis), prostate gland disorders, pyelitis, scarlet fever, sexual impotence, sinus infection, smallpox, tuberculosis, tumors,

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typhoid, uremia, or ~~venereal disease~~ sexually transmitted infection (STI) shall also be deemed to be false, except that no advertisement not in violation of subsection (a) of this section shall be deemed to be false under this subsection if it is disseminated only to members of the medical, dental, or veterinary professions, or appears only in scientific periodicals of those professions, or is disseminated only for the purpose of public health education by persons not commercially interested, directly or indirectly, in the sale of drugs or devices; provided, that whenever the State Commissioner of Health determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named above, the State Board of Health shall by regulation authorize the advertisement of drugs having curative or therapeutic effect for such disease, subject to such conditions and restrictions as the Board and the Commissioner may deem necessary in the interests of public health; provided, that this subsection shall not be construed as indicating that self-medication for disease other than those named herein is safe or efficacious.

SECTION 36. AMENDATORY 63 O.S. 2001, Section 1-1905, is amended to read as follows:

Section 1-1905. A. An application for a license, or renewal thereof, to operate a facility shall be accompanied by a fee of Ten Dollars ($10.00) for each bed included in the maximum bed capacity

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at such facility. All licenses shall be on a form prescribed by the State Commissioner of Health, which shall include, but not be limited to, the maximum bed capacity for which it is granted and the date the license was issued. The license shall:

1. Not be transferable or assignable;

2. Be posted in a conspicuous place on the licensed premises;

3. Be issued only for the premises named in the application; and

4. Expire ~~on July 30 of each year~~ twelve (12) months from the date of issuance, provided an initial license shall expire one hundred eighty (180) days after the date of issuance. Licenses may be issued for a period of more than twelve (12) months, but not more than twenty-four (24) months, for the license period immediately following the effective date of this provision in order to permit an equitable distribution of license expiration dates to all months of the year.

B. The fee ~~for a license renewal following an initial license, or~~ for a license amendment to reflect ~~a change~~ an increase in bed capacity~~,~~ shall be prorated based on the number of days remaining ~~until July 30,~~ in the licensure period and~~, in~~ the ~~case of a~~ change in the number of beds~~, the total number of beds~~.

C. The issuance or renewal of a license after notice of a violation has been sent shall not constitute a waiver by the State

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Department of Health of its power to rely on the violation as the basis for subsequent license revocation or other enforcement action under this act arising out of the notice of violation.

D. 1. When transfer of ownership or operation of a facility is proposed, the transferee shall notify the Department of the transfer and apply for a new license at least thirty (30) days prior to final transfer.

2. The transferor shall remain responsible for the operation of the facility until such time as a license is issued to the transferee.

3. The license granted to the transferee shall be subject to the plan of correction submitted by the previous owner and approved by the Department and any conditions contained in a conditional license issued to the previous owner. If there are outstanding violations and no approved plan of correction has been implemented, the Department may issue a conditional license and plan of correction as provided in this act.

4. The transferor shall remain liable for all penalties assessed against the facility which are imposed for violations occurring prior to transfer of ownership.

E. Nursing and specialized facilities, as defined and licensed pursuant to the Nursing Home Care Act shall be surveyed through an

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unannounced inspection at least once every fifteen (15) months, with a statewide average survey cycle of twelve (12) months.

SECTION 37. AMENDATORY 63 O.S. 2001, Section 946, is amended to read as follows:

Section 946. A. If death occurred under circumstances as enumerated in Section 938 of this title, and if the body has been buried without proper certification of death, it shall be the duty of the medical examiner, upon ascertaining such facts, to notify the Chief Medical Examiner and the district attorney of the county in which the body was buried. The district attorney shall present facts to the judge of the district court of that county, and the judge, after a hearing, may by written order require the body to be exhumed and an autopsy performed by the Chief Medical Examiner or his designee. <u>A copy of the court order for exhumation shall be provided to the State Department of Health.</u> A complete report of the facts developed by the autopsy and the findings of the person making the same shall be filed with the Chief Medical Examiner without unnecessary delay and a copy furnished the district attorney of the county within which the death occurred or within which the body was buried, or both.

B. No order for exhumation, as provided for in subsection A of this section, shall be made without notice of the hearing being served upon the decedent's surviving spouse, parents or next of kin,

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five (5) days prior to the hearing. The notice shall be served in the same manner as provided for by law for the service of summons in a civil action, shall include the date, time and place of the hearing and shall advise the person so notified that he or she has the right to appear and be heard by the court at that time. Provided, that the district attorney may, by affidavit, advise the court that the identity or whereabouts of any persons required to be served with notice under this subsection is unknown and cannot be ascertained with due diligence. Upon finding that the facts stated in the affidavit are true, the court shall not require notice be given.

SECTION 38. AMENDATORY 63 O.S. 2001, Section 2602, is amended to read as follows:

Section 2602. A. Notwithstanding any other provision of law, the following minors may consent to have services provided by health professionals in the following cases:

1. Any minor who is married, has a dependent child or is emancipated;

2. Any minor who is separated from his parents or legal guardian for whatever reason and is not supported by his parents or guardian;

3. Any minor who is ~~or has been~~ <u>at risk of becoming</u> pregnant, <u>may have been exposed to or</u> afflicted with any ~~reportable~~

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communicable disease, drug and substance abuse or abusive use of alcohol; provided, however, that such self-consent only applies to the prevention, diagnosis and treatment of those conditions specified in this section. Any health professional who accepts the responsibility of providing such health services also assumes the obligation to provide counseling for the minor by a health professional. If the minor is found not to be pregnant nor suffering from a communicable disease nor drug or substance abuse nor abusive use of alcohol, the health professional shall not reveal any information whatsoever to the spouse, parent or legal guardian, without the consent of the minor;

4. Any minor parent as to his child;

5. Any spouse of a minor when the minor is unable to give consent by reason of physical or mental incapacity;

6. Any minor who by reason of physical or mental capacity cannot give consent and has no known relatives or legal guardian, if two physicians agree on the health service to be given; or

7. Any minor in need of emergency services for conditions which will endanger his health or life if delay would result by obtaining consent from his spouse, parent or legal guardian; provided, however, that the prescribing of any medicine or device for the prevention of pregnancy shall not be considered such an emergency service.

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If any minor falsely represents that he may give consent and a health professional provides health services in good faith based upon that misrepresentation, the minor shall receive full services without the consent of the minor's parent or legal guardian and the health professional shall incur no liability except for negligence or intentional harm. Consent of the minor shall not be subject to later disaffirmance or revocation because of his minority.

B. The health professional shall be required to make a reasonable attempt to inform the spouse, parent or legal guardian of the minor of any treatment needed or provided under paragraph 7 of subsection A of this section. In all other instances the health professional may, but shall not be required to inform the spouse, parent or legal guardian of the minor of any treatment needed or provided. The judgment of the health professional as to notification shall be final, and his disclosure shall not constitute libel, slander, the breach of the right of privacy, the breach of the rule of privileged communication or result in any other breach that would incur liability.

Information about the minor obtained through care by a health professional under the provisions of this act shall not be disseminated to any health professional, school, law enforcement agency or official, court authority, government agency or official employer, without the consent of the minor, except through specific

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legal requirements or if the giving of the information is necessary to the health of the minor and public. Statistical reporting may be done when the minor's identity is kept confidential.

The health professional shall not incur criminal liability for action under the provisions of this act except for negligence or intentional harm.

SECTION 39. REPEALER 63 O.S. 2001, Sections 1-305, 1-306, 1-307, 1-308, 1-309 and 1-519, are hereby repealed.

SECTION 40. This act shall become effective November 1, 2011.

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated 02-24-2011 - DO PASS, As Coauthored.

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