

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 3491

By: Talley

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7 COMMITTEE SUBSTITUTE

8 An Act relating to health records; amending 63 O.S.
9 2011, Section 1-502.2, which relates to the Public
10 Health Code; modifying confidentiality of records;
11 amending 25 O.S. 2011, Section 304, as amended by
12 Section 3, Chapter 81, O.S.L. 2019 (25 O.S. Supp.
13 2019, Section 304), which relates to the Open Meeting
14 Act; updating statutory reference; and providing an
15 effective date.

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

17 SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-502.2, is
18 amended to read as follows:

19 Section 1-502.2 A. Unless otherwise provided by law, all
20 information and records created, received, investigated, held or
21 maintained by the State Department of Health, concerning any person
22 who has participated in a public health investigation or who may
23 have any communicable or noncommunicable disease which is required
24 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~~

1 ~~maintained~~ issued to the Department by any state agency, health care
2 ~~provider or facility, physician, health professional, laboratory,~~
3 ~~clinic, blood bank, funeral director, third party payor, or any~~
4 ~~other agency, person, or organization in the state~~ entity authorized
5 or required by law to issue such information or records shall be
6 confidential records of the Department. Any information obtained
7 pursuant to the requirements of Sections 1-501 through 1-532.1 of
8 this title shall not be required to be produced pursuant to the
9 Oklahoma Open Records Act. Any information authorized to be
10 released pursuant to paragraphs 1 through 8 of this subsection shall
11 be released in such a way that no person can be identified unless
12 otherwise provided for in such paragraph or by law. Such
13 information shall not be released except under the following
14 circumstances:

15 1. Release is made upon court order;

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

21 3. Release is necessary as determined by the State Department
22 of Health to protect the health and well-being of the general
23 public. Any such order for release by the Department and any review
24 of such order shall be in accordance with the procedures specified

1 in Sections 309 through 323 of Title 75 of the Oklahoma Statutes.
2 Only the initials of the person whose information is being kept
3 confidential shall be on public record for such proceedings unless
4 the order by the Department specifies the release of the name of
5 such person and such order is not appealed by such person or such
6 order is upheld by the reviewing court;

7 4. Release is made of medical or epidemiological information to
8 those persons who have had risk exposures pursuant to Section 1-
9 502.1 of this title;

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

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

19 7. Release is made of medical information among health care
20 providers, their agents or employees, within the continuum of care
21 for the purpose of diagnosis and treatment of the person whose
22 information is released whether within the State of Oklahoma or
23 throughout the United States; or
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1 8. When the patient is an inmate in the custody of the
2 Department of Corrections or a private prison or facility under
3 contract with the Department of Corrections, and the release of the
4 information is necessary:

5 a. to prevent or lessen a serious and imminent threat to
6 the health or safety of a person or the public, and it
7 is to a person or persons reasonably able to prevent
8 or lessen the threat, including the target of the
9 threat, or

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

14 B. For the purposes of this section only, "written consent"
15 means that the person whose information is required to be kept
16 confidential by this section or the person legally authorized to
17 consent to release by this section has been informed of all persons
18 or organizations to whom such information may be released or
19 disclosed by the specific release granted. Consent obtained for
20 release of information, pursuant to paragraph 2 of subsection A of
21 this section, shall not be considered valid unless, prior to
22 consent, the person consenting to the release was given notice of
23 the provisions for release of confidential information pursuant to
24 this section. The provisions of this subsection shall not apply to

1 written authorizations to disclose information to the Social
2 Security Administration.

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

8 a. the parent, parents, legal representative, or legal
9 guardian or legal custodian of the student~~+~~1

10 b. the physician of the student~~+~~1

11 c. a representative from the superintendent's office of
12 the affected school district~~+~~1

13 d. a representative from the State Department of
14 Education~~+~~1 and

15 e. a representative from the State Department of Health.

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

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

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

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

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

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

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

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

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

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

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

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

17 SECTION 2. AMENDATORY 25 O.S. 2011, Section 304, as
18 amended by Section 3, Chapter 81, O.S.L. 2019 (25 O.S. Supp. 2019,
19 Section 304), is amended to read as follows:

20 Section 304. As used in the Oklahoma Open Meeting Act:

21 1. "Public body" means the governing bodies of all
22 municipalities located within this state, boards of county
23 commissioners of the counties in this state, boards of public and
24 higher education in this state and all boards, bureaus, commissions,

1 agencies, trusteeships, authorities, councils, committees, public
2 trusts or any entity created by a public trust, including any
3 committee or subcommittee composed of any of the members of a public
4 trust or other legal entity receiving funds from the Rural Economic
5 Action Plan Fund as authorized by Section 2007 of Title 62 of the
6 Oklahoma Statutes, task forces or study groups in this state
7 supported in whole or in part by public funds or entrusted with the
8 expending of public funds, or administering public property, and
9 shall include all committees or subcommittees of any public body.
10 Public body shall not include the state judiciary, the Council on
11 Judicial Complaints when conducting, discussing, or deliberating any
12 matter relating to a complaint received or filed with the Council,
13 the Legislature, or administrative staffs of public bodies,
14 including, but not limited to, faculty meetings and athletic staff
15 meetings of institutions of higher education when those staffs are
16 not meeting with the public body, or entry-year assistance
17 committees. Furthermore, public body shall not include the
18 multidisciplinary teams provided for in Section 1-9-102 of Title 10A
19 of the Oklahoma Statutes and subsection C of Section 1-502.2 of
20 Title 63 of the Oklahoma Statutes or any school board meeting for
21 the sole purpose of considering recommendations of a
22 multidisciplinary team and deciding the placement of any child who
23 is the subject of the recommendations. Furthermore, public body
24 shall not include meetings conducted by stewards designated by the

1 Oklahoma Horse Racing Commission pursuant to Section 203.4 of Title
2 3A of the Oklahoma Statutes when the stewards are officiating at
3 races or otherwise enforcing rules of the Commission;

4 2. "Meeting" means the conduct of business of a public body by
5 a majority of its members being personally together or, as
6 authorized by Section 307.1 of this title, together pursuant to a
7 videoconference. Meeting shall not include informal gatherings of a
8 majority of the members of the public body when no business of the
9 public body is discussed;

10 3. "Regularly scheduled meeting" means a meeting at which the
11 regular business of the public body is conducted;

12 4. "Special meeting" means any meeting of a public body other
13 than a regularly scheduled meeting or emergency meeting;

14 5. "Emergency meeting" means any meeting called for the purpose
15 of dealing with an emergency. For purposes of the Oklahoma Open
16 Meeting Act, an emergency is defined as a situation involving injury
17 to persons or injury and damage to public or personal property or
18 immediate financial loss when the time requirements for public
19 notice of a special meeting would make such procedure impractical
20 and increase the likelihood of injury or damage or immediate
21 financial loss;

22 6. "Continued or reconvened meeting" means a meeting which is
23 assembled for the purpose of finishing business appearing on an
24 agenda of a previous meeting. For the purposes of the Oklahoma Open

1 Meeting Act, only matters on the agenda of the previous meeting at
2 which the announcement of the continuance is made may be discussed
3 at a continued or reconvened meeting; and

4 7. "Videoconference" means a conference among members of a
5 public body remote from one another who are linked by interactive
6 telecommunication devices permitting both visual and auditory
7 communication between and among members of the public body and
8 members of the public. During any videoconference, both the visual
9 and auditory communications functions of the device shall be
10 utilized. Whenever the term "teleconference" appears in any law in
11 relation to a meeting of a public body, it shall be deemed to mean a
12 videoconference as defined in this paragraph.

13 SECTION 3. This act shall become effective November 1, 2020.

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