

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1014

By: Roe

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8 COMMITTEE SUBSTITUTE

9 An Act relating to public health; amending 63 O.S.
10 2011, Section 1-502.2, as amended by Section 1,
11 Chapter 118, O.S.L. 2020 (63 O.S. Supp. 2020, Section
12 1-502.2), which relates to confidentiality of certain
13 information; including certain records; excluding
14 information and records held by certain entities;
15 removing reference; requiring release of certain
16 information in accordance with federal law; removing
17 certain identification requirements; updating
18 reference; amending 63 O.S. 2011, Section 1-507,
19 which relates to schools and the attendance of
20 diseased pupils; including people suspected of having
21 a communicable disease; transferring responsibility
22 from teachers to schools; updating permission-
23 granting entities; and declaring an emergency.

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-502.2, as
amended by Section 1, Chapter 118, O.S.L. 2020 (63 O.S. Supp. 2020,
Section 1-502.2), is amended to read as follows:

Section 1-502.2 A. Unless otherwise provided by law, all
information and records created, received, investigated, held, or

1 maintained by the State Department of Health, concerning any person
2 who has participated in a public health investigation or who may
3 have any communicable or noncommunicable disease which is required
4 to be reported pursuant to Sections 1-501 through 1-532.1 of this
5 ~~title or information and records of any disease which are held or~~
6 ~~maintained by any state agency, health care provider or facility,~~
7 ~~physician, health professional, laboratory, clinic, blood bank,~~
8 ~~funeral director, third-party payor, or any other agency, person, or~~
9 ~~organization in the state,~~ shall be confidential. ~~Any information~~
10 ~~obtained pursuant to the requirements of Sections 1-501 through 1-~~
11 ~~532.1 of this title~~ records of the Department and shall not be
12 required to be produced pursuant to the Oklahoma Open Records Act.
13 ~~Any information authorized to be released pursuant to paragraphs 1~~
14 ~~through 8 of this subsection shall be released in such a way that no~~
15 ~~person can be identified unless otherwise provided for in such~~
16 ~~paragraph or by law.~~ Such information shall not be released except
17 under the following circumstances:
18 1. Release is made upon court order;
19 2. Release is made in writing, by or with the written consent
20 of the person whose information is being kept confidential or with
21 the written consent of the legal guardian or legal custodian of such
22 person, or if such person is a minor, with the written consent of
23 the parent or legal guardian of such minor;

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1 3. Release is necessary as determined by the State Department
2 of Health to protect the health and well-being of the general public
3 and such release is authorized or required under and released in
4 accordance with the Health Insurance Portability and Accountability
5 Act of 1996. ~~Any such order for release by the Department and any~~
6 ~~review of such order shall be in accordance with the procedures~~
7 ~~specified in Sections 309 through 323 of Title 75 of the Oklahoma~~
8 ~~Statutes. Only the initials of the person whose information is~~
9 ~~being kept confidential shall be on public record for such~~
10 ~~proceedings unless the order by the Department specifies the release~~
11 ~~of the name of such person and such order is not appealed by such~~
12 ~~person or such order is upheld by the reviewing court;~~

13 4. Release is made of medical or epidemiological information to
14 those persons who have had risk exposures pursuant to Section 1-
15 502.1 of this title;

16 5. Release is made of medical or epidemiological information to
17 health professionals, appropriate state or federal agencies, or
18 district courts to enforce the provisions of Sections 1-501 through
19 1-532.1 of this title and related rules and regulations concerning
20 the control and treatment of communicable or noncommunicable
21 diseases;

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

3 7. Release is made of medical information among health care
4 providers, their agents or employees, within the continuum of care
5 for the purpose of diagnosis and treatment of the person whose
6 information is released whether within the State of Oklahoma or
7 throughout the United States; or

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

12 a. to prevent or lessen a serious and imminent threat to
13 the health or safety of a person or the public, and it
14 is to a person or persons reasonably able to prevent
15 or lessen the threat, including the target of the
16 threat, or

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

21 B. For the purposes of this section only, "written consent"
22 means that the person whose information is required to be kept
23 confidential by this section or the person legally authorized to
24 consent to release by this section has been informed of all persons

1 or organizations to whom such information may be released or
2 disclosed by the specific release granted. Consent obtained for
3 release of information, pursuant to paragraph 2 of subsection A of
4 this section, shall not be considered valid unless, prior to
5 consent, the person consenting to the release was given notice of
6 the provisions for release of confidential information pursuant to
7 this section. The provisions of this subsection shall not apply to
8 written authorizations to disclose information to the Social
9 Security Administration.

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

- 15 a. the parent, parents, legal representative, or legal
16 guardian or legal custodian of the student,
- 17 b. the physician of the student,
- 18 c. a representative from the superintendent's office of
19 the affected school district,
- 20 d. a representative from the State Department of
21 Education, and
- 22 e. a representative from the State Department of Health.

23 Each member of the team shall be responsible for protecting the
24 confidentiality of the student and any information made available to

1 such person as a member of the team. The multidisciplinary team
2 shall be exempt from the requirements of Sections 301 through 314 of
3 Title 25 of the Oklahoma Statutes and Sections 24A.1 through 24A.19
4 of Title 51 of the Oklahoma Statutes.

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

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

- 16 1. The State Commissioner of Health or designee;
- 17 2. Legal counsel to the State Commissioner of Health;
- 18 3. The state epidemiologist or designee;
- 19 4. An infectious disease specialist with expertise in HIV/HBV
20 infection; and
- 21 5. Two practicing health care workers from the same discipline
22 as the HIV/HBV-infected health care worker.

23 In addition, the health care worker being discussed, and/or an
24 advocate, and the personal physician of the health care worker being

1 discussed shall be invited to the multidisciplinary advisory
2 committee meeting. Discussion of the case shall be made without
3 using the actual name of the health care worker. Each member of the
4 multidisciplinary advisory committee shall be responsible for
5 protecting the confidentiality of the HIV/HBV-infected health care
6 worker and the confidentiality of any information made available to
7 such person as a member of the multidisciplinary advisory committee.
8 The multidisciplinary advisory committee shall be exempt from the
9 requirements of the Oklahoma Open Meeting Act and the Oklahoma Open
10 Records Act.

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

- 22 1. The facility administrator;
- 23 2. The hospital epidemiologist;

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

3 4. The medical chief of staff of the facility.

4 F. If the HIV/HBV-infected health care worker fails or refuses
5 to comply with the recommendations of the multidisciplinary advisory
6 committee, the State Commissioner of Health or designee may take
7 such actions as may be required to perform the duties imposed by the
8 laws of the State of Oklahoma, and may advise the appropriate
9 licensing board.

10 G. 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, upon
13 conviction, shall be guilty of a misdemeanor punishable by the
14 imposition of a fine of not less than One Thousand Dollars
15 (\$1,000.00) or by imprisonment in the county jail for not more than
16 thirty (30) days, or by both such fine and imprisonment.

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

1 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-507, is
2 amended to read as follows:

3 Section 1-507. No person having or suspected of having a
4 communicable disease shall be permitted to attend a private or
5 public school, and it shall be the duty of the parent or guardian ~~of~~
6 ~~any such person,~~ and the ~~teacher~~ school of such person, to exclude
7 from the school such person until the expiration of the period of
8 isolation or quarantine ordered for the case, or until permission to
9 do so shall have been given by the local ~~health officer~~ county
10 health department or the State Department of Health.

11 SECTION 3. It being immediately necessary for the preservation
12 of the public peace, health or safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

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16 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 02/24/2021 -
17 DO PASS, As Amended.

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