

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
3 BILL NO. 2938

By: Dills and Branham of the
House

4 and

5 Newhouse of the Senate

6
7
8 An Act relating to public health; amending 63 O.S.
2011, Section 1-705, which relates to community-based
9 programs and services to be provided; requiring
information regarding local substance abuse,
10 addiction and mental health services be provided to
certain persons; directing the Department of Mental
11 Health and Substance Abuse Services to provide
certain information to hospitals; and providing an
12 effective date.

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15 AUTHOR: Add the following House Coauthor: Hill

16 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and the
entire bill and insert

17
18 "An Act relating to public health; amending 63 O.S.
2011, Section 1-502.2, which relates to confidential
19 information; modifying certain exception; and
declaring an emergency.

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

22 SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-502.2, is
23 amended to read as follows:
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1 Section 1-502.2. A. Unless otherwise provided by law, all
2 information and records concerning any person who has participated
3 in a public health investigation or who may have any communicable or
4 noncommunicable disease which is required to be reported pursuant to
5 Sections 1-501 through 1-532.1 of this title or information and
6 records of any disease which are held or maintained by any state
7 agency, health care provider or facility, physician, health
8 professional, laboratory, clinic, blood bank, funeral director,
9 third party payor, or any other agency, person, or organization in
10 the state shall be confidential. Any information obtained pursuant
11 to the requirements of Sections 1-501 through 1-532.1 of this title
12 shall not be required to be produced pursuant to the Oklahoma Open
13 Records Act. Any information authorized to be released pursuant to
14 paragraphs 1 through 8 of this subsection shall be released in such
15 a way that no person can be identified unless otherwise provided for
16 in such paragraph or by law. Such information shall not be released
17 except 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 the Health
4 Insurance Portability and Accountability Act of 1996. Any such
5 order for release by the Department and any review of such order
6 shall be in accordance with the procedures specified in Sections 309
7 through 323 of Title 75 of the Oklahoma Statutes. Only the initials
8 of the person whose information is being kept confidential shall be
9 on public record for such proceedings unless the order by the
10 Department specifies the release of the name of such person and such
11 order is not appealed by such person or such order is upheld by the
12 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 agencies, or district courts
18 to enforce the provisions of Sections 1-501 through 1-532.1 of this
19 title and related rules and regulations concerning the control and
20 treatment of communicable or noncommunicable diseases;

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

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

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

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

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

19 B. For the purposes of this section only, "written consent"
20 means that the person whose information is required to be kept
21 confidential by this section or the person legally authorized to
22 consent to release by this section has been informed of all persons
23 or organizations to whom such information may be released or
24 disclosed by the specific release granted. Consent obtained for

1 release of information, pursuant to paragraph 2 of subsection A of
2 this section, shall not be considered valid unless, prior to
3 consent, the person consenting to the release was given notice of
4 the provisions for release of confidential information pursuant to
5 this section. The provisions of this subsection shall not apply to
6 written authorizations to disclose information to the Social
7 Security Administration.

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

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

21 Each member of the team shall be responsible for protecting the
22 confidentiality of the student and any information made available to
23 such person as a member of the team. The multidisciplinary team
24 shall be exempt from the requirements of Sections 301 through 314 of

1 Title 25 of the Oklahoma Statutes and Sections 24A.1 through 24A.19
2 of Title 51 of the Oklahoma Statutes.

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

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

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

21 In addition, the health care worker being discussed, and/or an
22 advocate, and the personal physician of the health care worker being
23 discussed shall be invited to the multidisciplinary advisory
24 committee meeting. Discussion of the case shall be made without

1 using the actual name of the health care worker. Each member of the
2 multidisciplinary advisory committee shall be responsible for
3 protecting the confidentiality of the HIV/HBV-infected health care
4 worker and the confidentiality of any information made available to
5 such person as a member of the multidisciplinary advisory committee.
6 The multidisciplinary advisory committee shall be exempt from the
7 requirements of the Oklahoma Open Meeting Act and the Oklahoma Open
8 Records Act.

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

- 20 1. The facility administrator;
- 21 2. The hospital epidemiologist;
- 22 3. The chair of the infection control committee of the
23 facility; or
- 24 4. The medical chief of staff of the facility.

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

7 G. Any person who negligently, knowingly or intentionally
8 discloses or fails to protect medical or epidemiological information
9 classified as confidential pursuant to this section, upon
10 conviction, shall be guilty of a misdemeanor punishable by the
11 imposition of a fine of not less than One Thousand Dollars
12 (\$1,000.00) or by imprisonment in the county jail for not more than
13 thirty (30) days, or by both such fine and imprisonment.

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

21 SECTION 2. It being immediately necessary for the preservation
22 of the public peace, health or safety, an emergency is hereby
23 declared to exist, by reason whereof this act shall take effect and
24 be in full force from and after its passage and approval."

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7 An Act relating to public health; amending 63 O.S.
8 2011, Section 1-705, which relates to community-based
9 programs and services to be provided; requiring
10 information regarding local substance abuse,
11 addiction and mental health services be provided to
12 certain persons; directing the Department of Mental
13 Health and Substance Abuse Services to provide
14 certain information to hospitals; and providing an
15 effective date.

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

17 SECTION 3. AMENDATORY 63 O.S. 2011, Section 1-705, is
18 amended to read as follows:

19 Section 1-705. A. The State Board of Health, upon
20 recommendation of the State Commissioner of Health and with the
21 advice of the Oklahoma Hospital Advisory Council hereinafter
22 provided for, shall promulgate rules and standards for the
23 construction and operation of hospitals, for which licenses are
24 required by the terms of this article, to provide for the proper
care of patients. The promulgation of rules shall be subject to and
be governed by the provisions of the Administrative Procedures Act.

1 B. Every hospital shall be periodically inspected by an
2 authorized representative of the Commissioner. Reports of such
3 inspections shall be on forms prescribed by the Commissioner, who
4 shall, after receipt of such reports, take such action as deemed
5 necessary by the Commission to have corrected any deficiencies or
6 violations of the rules and standards of the Board shown in such
7 reports.

8 C. Hospitals licensed pursuant to the provisions of this
9 article shall not be exempt from being inspected or licensed under
10 laws relating to hotels, restaurants, lodging houses, boarding
11 houses and places of refreshment.

12 D. 1. Every hospital that offers or provides inpatient
13 psychiatric or chemical dependency treatment services to persons
14 eighteen (18) years of age or younger shall offer, provide or
15 otherwise make available community-based programs and services and
16 may make such programs and services available directly, through
17 contract, or other appropriate means as determined by the State
18 Department of Health.

19 2. For the purposes of this subsection the term "community-
20 based services" shall have the same meaning as such term is defined
21 by Section 1-1-105 of Title 10A of the Oklahoma Statutes.

22 E. Every hospital emergency room shall provide information on
23 available local substance abuse, addiction and mental health
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1 services to a person seeking help for his or her addiction or mental
2 health care needs.

3 F. The Department of Mental Health and Substance Abuse Services
4 shall provide every hospital emergency room with the information on
5 available local substance abuse and addiction services required by
6 subsection E of this section.

7 SECTION 4. This act shall become effective November 1, 2020.

8 Passed the House of Representatives the 5th day of March, 2020.

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Presiding Officer of the House
of Representatives

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Passed the Senate the ___ day of _____, 2020.

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Presiding Officer of the Senate

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