

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1850

By: Ervin

AS INTRODUCED

An Act relating to torts; amending 76 O.S. 1991, Section 19, as amended by Section 1, Chapter 90, O.S.L. 1994 (76 O.S. Supp. 1994, Section 19), which relates to access to medical records; expanding authorized access to patient records; allowing the charging of a certain limited fee for a search of medical records; allowing the charging of a certain limited fee for mailing copies of medical records; clarifying person who waives certain privileges by certain actions; and providing an effective date.

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

SECTION 1. AMENDATORY 76 O.S. 1991, Section 19, as amended by Section 1, Chapter 90, O.S.L. 1994 (76 O.S. Supp. 1994, Section 19), is amended to read as follows:

Section 19. A. Any person who is or has been a patient of a doctor, hospital or other medical institution or the attorney, legal guardian or legal representative of the patient shall be entitled to obtain access to the information contained in all ~~his~~ the medical records of the patient upon request, and shall be furnished copies of all records pertaining to ~~his or her~~ the patient's case upon request and upon the tender of the expense of such copy or copies.

~~Cost of~~ The cost for the patient or the attorney, legal guardian or legal representative of the patient for each copy shall not exceed twenty-five cents (\$0.25) per page. The physician, hospital or other medical professionals and institutions may ~~not~~ charge the patient or the attorney, legal guardian or legal representative of the patient a fee, not to exceed Ten Dollars (\$10.00), for searching, retrieving, reviewing and preparing medical records of the ~~person~~ patient in order to determine which medical records are to be copied, and in addition, a fee, not to exceed the actual cost of postage, for mailing medical records. Provided that this entitlement to medical records shall not apply to psychological or psychiatric records. In the case of psychological or psychiatric records, the patient shall not be entitled to copies unless access to said records is consented to by the treating physician or practitioner or is ordered by a court of competent jurisdiction upon a finding that it is in the best interest of the patient, but the patient may be provided access to information contained in said records, as provided in subsection B of Section 1-109 of Title 43A of the Oklahoma Statutes. The patient or, if the patient is a minor child or a guardian has been appointed for the patient, the guardian of the patient may authorize the release of the psychiatric or psychological records of the patient to a third party payor or governmental entity. The execution of such authorization shall not be construed to authorize the patient personal access to said records or information.

B. In cases involving a claim for personal injury or death against any practitioner of the healing arts or a licensed hospital, arising out of patient care, where ~~any person has placed his~~ the physical or mental condition of the person who is or has been a patient has been placed in issue by the commencement of any action, proceeding or suit for damages, or where any person has placed in issue the physical or mental condition of any other person or

deceased person who is or has been a patient by or through whom such person rightfully claims, ~~he~~ the person shall be deemed to waive any privilege granted by law concerning any communication made to a physician or health care provider with reference to any physical or mental condition or any knowledge obtained by ~~such~~ the physician or health care provider by personal examination of ~~any such~~ the patient; provided that, before any ~~such~~ communication, medical or hospital record or testimony is admitted in evidence in any proceeding it must be material and relevant to an issue therein, according to existing rules of evidence.

Any person who obtains any document pursuant to the provisions of this section shall provide copies of ~~said~~ the document to any opposing party in ~~said~~ the proceeding upon payment of the expense of copying said document, not to exceed twenty-five cents (\$0.25) for each page copied.

SECTION 2. This act shall become effective November 1, 1995.

45-1-5499

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