

SHORT TITLE: Torts; allowing persons authorized by certain patients to have access to certain medical records; effective date.

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

SENATE BILL NO. 72

By: Hendrick

AS INTRODUCED

An Act relating to medical records; 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 certain medical records; allowing certain persons authorized by a patient to have access to certain medical records; correcting gender references; 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 any other person to whom the patient has given written authorization for access to information as provided for in this section shall be entitled to obtain access to the information contained in all ~~his~~ of the patient's medical records 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 each copy shall not exceed twenty-five cents (\$0.25) per page. The physician, hospital, or other medical professionals and institutions may not charge a fee for searching, retrieving, reviewing, and preparing medical records of the person in order to determine which medical records are to be copied.

~~Provided;~~ provided that this entitlement to medical records shall not apply to psychological or psychiatric records. ~~In~~ Unless otherwise ordered by the court, in the case of psychological or psychiatric records, the patient or other person as authorized by this section shall not be entitled to copies unless access to ~~said~~ the 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 or other person as authorized by this section may be provided access to information contained in ~~said~~ the 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, or the patient's attorney. The execution of such authorization shall not be construed to authorize the patient personal access to ~~said~~ the 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 person's physical or mental condition 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 by or through whom such person rightfully claims, he or she shall be deemed to ~~waive~~ have waived 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 physician or health care provider by personal examination of any such 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.

C. 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~~ the document, not to exceed twenty-five cents (\$0.25) for each page copied.

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

45-1-0731            KSM