

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. _____

By: Long

AS INTRODUCED

An Act relating to torts; amending 76 O.S. 1991, Section 19, as last amended by Section 14, Chapter 251, O.S.L. 1995 (76 O.S. Supp. 1998, Section 19), which relates to patient access to medical records; clarifying language; providing for patient access to certain medical records; limiting patient access to copies of certain medical records; allowing charge for actual cost of mailing certain medical records; and providing an effective date.

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

SECTION 478. AMENDATORY 76 O.S. 1991, Section 19, as last amended by Section 14, Chapter 251, O.S.L. 1995 (76 O.S. Supp. 1998, Section 19), is amended to read as follows:

Section 19. A. 1. Any person who is or has been a patient of a doctor, hospital, or other medical institution shall be entitled to obtain access to the information contained in all of the patient's medical records, which shall include any x-ray photographs, of the person upon request, ~~and.~~

2. Any person who is or has been a patient of a doctor, hospital, or other medical institution shall be furnished copies of all records, not including any x-ray photographs, pertaining to that person's case upon request and upon the tender of the expense of ~~such~~ the copy or copies. ~~Cost~~ The cost of each copy shall not exceed twenty-five cents (\$0.25) per page. The physician, hospital, or other medical professionals and institutions may charge a patient for the actual cost of mailing the patient's requested medical records, but 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 that this entitlement to medical records.~~

3. The provisions of paragraphs 1 and 2 of this subsection 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~~ 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~~ interests of the patient, but the patient 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 the patient's attorney, a third party payor, or a governmental entity. The execution of ~~such~~ an authorization shall not be construed to authorize the patient personal access to ~~said~~ the records or information.

B. 1. 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 the physical or mental condition of that person 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~~ the person rightfully claims, that 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 ~~patient~~ that person; 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.

2. 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 1. This act shall become effective November 1, 1999.

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