

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE BILL 1460

By: Leftwich

AS INTRODUCED

An Act relating to medical records; amending 76 O.S. 2001, Section 19, which relates to medical records; increasing certain copy costs; and declaring an emergency.

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

SECTION 1. AMENDATORY 76 O.S. 2001, 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, upon request, to obtain access to the information contained in the patient's medical records, including any x-ray or other photograph or image, ~~upon request~~.

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, including any x-ray or other photograph or image, pertaining to that person's case upon request and upon the tender of the expense of the copy or copies. The cost of each copy, not including any x-ray or other photograph or image, shall not exceed ~~twenty-five cents (\$0.25) per~~ One Dollar (\$1.00) for the first page and fifty cents (\$0.50) for each subsequent page. The cost of each x-ray or other photograph or image shall not exceed Five Dollars (\$5.00) or the actual cost of reproduction, whichever is less. 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.

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 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 interests of the patient, but the patient may be provided access to information contained in 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 an authorization shall not be construed to authorize the patient personal access to 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 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 the physician or health care provider by personal examination of the patient; provided that, before any 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 the document to any opposing party in the proceeding upon payment of the expense of copying the document pursuant to the provisions of this section.

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

48-2-1838

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