

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 706

By: Campbell

AS INTRODUCED

An Act relating to medical records; amending 76 O.S. 1991, Section 19, as last amended by Section 27, Chapter 293, O.S.L. 1999 (76 O.S. Supp. 2000, Section 19); requiring that records of specified medical tests cannot be destroyed with permission of patient; requiring notice; providing for payment for records; allowing destruction of records within specified period of time; 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 last amended by Section 27, Chapter 293, O.S.L. 1999 (76 O.S. Supp. 2000, 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 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 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 medical records of any person who is or has been a patient of a doctor, hospital, or other medical institution shall not be destroyed without the permission of the patient. If the doctor, hospital, or other medical institution destroys medical records, the doctor, hospital, or other medical institution shall notify the patient that the patient's medical records will be destroyed and that the patient has the option to purchase copies of the patient's medical 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. If the patient notifies the doctor, hospital, or other medical institution that he or she does not wish to purchase the medical records, or does not notify the doctor, hospital or other medical institution, within a reasonable time after receipt of the notification of pending destruction of the medical records, the doctor, hospital, or other medical institution may destroy the medical records.

4. The provisions of paragraphs 1 ~~and~~, 2, and 3 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. This act shall become effective November 1, 2001.

48-1-1032

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