

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 447

By: Paddack

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5
6 AS INTRODUCED

7 An Act relating to medical records; amending 76 O.S.
8 2001, Section 19, as last amended by Section 1,
9 Chapter 88, O.S.L. 2005 (76 O.S. Supp. 2008, Section
10 19), which relates to medical record access; placing
11 cap on certain charges for copies in specified
12 circumstances; and providing an effective date.

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

14 SECTION 1. AMENDATORY 76 O.S. 2001, Section 19, as last
15 amended by Section 1, Chapter 88, O.S.L. 2005 (76 O.S. Supp. 2008,
16 Section 19), is amended to read as follows:

17 Section 19. A. 1. Any person who is or has been a patient of a
18 doctor, hospital, or other medical institution shall be entitled,
19 upon request, to obtain access to the information contained in the
20 patient's medical records, including any x-ray or other photograph or
21 image.

22 2. Any person who is or has been a patient of a doctor, hospital,
23 or other medical institution shall be furnished copies of all records,
24 including any x-ray or other photograph or image, pertaining to that

1 person's case upon request and upon the tender of the expense of the
2 copy or copies. The cost of each copy to such person or to the legal
3 representative of such person, not including any x-ray or other
4 photograph or image, shall not exceed One Dollar (\$1.00) for the
5 first page and fifty cents (\$0.50) for each subsequent page. The
6 cost of each x-ray or other photograph or image to such person or to
7 the legal representative of such person shall not exceed Five Dollars
8 (\$5.00) or the actual cost of reproduction, whichever is less. The
9 total cost for copies shall not exceed Fifty Dollars (\$50.00) if such
10 person is applying for social security disability/supplemental
11 security income disability benefits or appealing a denial of social
12 security disability/supplemental security income disability benefits.
13 The physician, hospital, or other medical professionals and
14 institutions may charge a patient for the actual cost of mailing the
15 patient's requested medical records, but may not charge a fee for
16 searching, retrieving, reviewing, and preparing medical records of
17 the person.

18 3. The provisions of paragraphs 1 and 2 of this subsection shall
19 not apply to psychological, psychiatric, mental health or substance
20 abuse treatment records. In the case of psychological, psychiatric,
21 mental health or substance abuse treatment records, access to
22 information contained in the records shall be obtained pursuant to
23 Section 1-109 of Title 43A of the Oklahoma Statutes.

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1 B. 1. In cases involving a claim for personal injury or death
2 against any practitioner of the healing arts or a licensed hospital,
3 or a nursing facility or nursing home licensed pursuant to Section 1-
4 1903 of Title 63 of the Oklahoma Statutes arising out of patient care,
5 where any person has placed the physical or mental condition of that
6 person in issue by the commencement of any action, proceeding, or
7 suit for damages, or where any person has placed in issue the
8 physical or mental condition of any other person or deceased person
9 by or through whom the person rightfully claims, that person shall be
10 deemed to waive any privilege granted by law concerning any
11 communication made to a physician or health care provider with
12 reference to any physical or mental condition or any knowledge
13 obtained by the physician or health care provider by personal
14 examination of the patient; provided that, before any communication,
15 medical or hospital record, or testimony is admitted in evidence in
16 any proceeding, it must be material and relevant to an issue therein,
17 according to existing rules of evidence. Psychological, psychiatric,
18 mental health and substance abuse treatment records and information
19 from psychological, psychiatric, mental health and substance abuse
20 treatment practitioners may only be obtained provided the
21 requirements of Section 1-109 of Title 43A of the Oklahoma Statutes
22 are met.

23 2. Any person who obtains any document pursuant to the
24 provisions of this section shall provide copies of the document to

1 any opposing party in the proceeding upon payment of the expense of
2 copying the document pursuant to the provisions of this section.

3 C. This section shall not apply to the records of an inmate in a
4 correctional institution when the correctional institution believes
5 the release of such information to be a threat to the safety or
6 security of the inmate or the institution.

7 SECTION 2. This act shall become effective November 1, 2009.

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