

1 STATE OF OKLAHOMA

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

3 SENATE BILL 801

By: Corn

4
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;
11 permitting patients of physicians whose license has
12 been suspended or revoked to obtain medical records;
13 requiring the surrender of certain records; providing
14 for noncompliance; prohibiting certain fee; and
15 providing an effective date.

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

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

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

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,

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

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

20 4. Notwithstanding any other provision of law, any person who is
21 or has been a patient of a physician whose license to practice
22 medicine or surgery has been revoked or suspended by the State Board
23 of Medical Licensure and Supervision or the State Board of
24 Osteopathic Examiners shall be entitled, upon request, to obtain all

1 information in the patient's medical records, including original
2 documents, x-rays or other photographs or images from the State Board
3 of Medical Licensure and Supervision or the State Board of
4 Osteopathic Examiners within five (5) years of such revocation or
5 suspension. The patient's medical records shall be surrendered to
6 the State Board of Medical Licensure and Supervision or the State
7 Board of Osteopathic Examiners by a physician within one month of
8 license revocation or suspension. Any physician who does not comply
9 with the provisions of this paragraph shall be fined no less than
10 Five Thousand Dollars (\$5,000.00) and no more than Ten Thousand
11 Dollars (\$10,000.00) by the State Board of Medical Licensure and
12 Supervision or the State Board of Osteopathic Examiners. The State
13 Board of Medical Licensure and Supervision or the State Board of
14 Osteopathic Examiners shall not charge a fee for searching or
15 preparing the medical records of the person under the provisions of
16 this paragraph.

17 B. 1. In cases involving a claim for personal injury or death
18 against any practitioner of the healing arts or a licensed hospital,
19 or a nursing facility or nursing home licensed pursuant to Section 1-
20 1903 of Title 63 of the Oklahoma Statutes arising out of patient care,
21 where any person has placed the physical or mental condition of that
22 person in issue by the commencement of any action, proceeding, or
23 suit for damages, or where any person has placed in issue the
24 physical or mental condition of any other person or deceased person

1 by or through whom the person rightfully claims, that person shall be
2 deemed to waive any privilege granted by law concerning any
3 communication made to a physician or health care provider with
4 reference to any physical or mental condition or any knowledge
5 obtained by the physician or health care provider by personal
6 examination of the patient; provided that, before any communication,
7 medical or hospital record, or testimony is admitted in evidence in
8 any proceeding, it must be material and relevant to an issue therein,
9 according to existing rules of evidence. Psychological, psychiatric,
10 mental health and substance abuse treatment records and information
11 from psychological, psychiatric, mental health and substance abuse
12 treatment practitioners may only be obtained provided the
13 requirements of Section 1-109 of Title 43A of the Oklahoma Statutes
14 are met.

15 2. Any person who obtains any document pursuant to the
16 provisions of this section shall provide copies of the document to
17 any opposing party in the proceeding upon payment of the expense of
18 copying the document pursuant to the provisions of this section.

19 C. This section shall not apply to the records of an inmate in a
20 correctional institution when the correctional institution believes
21 the release of such information to be a threat to the safety or
22 security of the inmate or the institution.

23

24

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

2
3 52-1-233 JM 3/6/2009 6:53:51 AM
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24