

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 COMMITTEE SUBSTITUTE  
4 FOR

5 HOUSE BILL NO. 2021

6 By: Sullivan

7 COMMITTEE SUBSTITUTE

8 An Act relating to torts; amending 76 O.S. 2001,  
9 Section 19, as last amended by Section 1, Chapter 88,  
10 O.S.L. 2005 (76 O.S. Supp. 2010, Section 19), which  
11 relates to access to medical records; including  
12 copies by facsimile in establishing maximum charge  
13 for records; modifying persons allowed to access  
14 specified records; establishing maximum cost for  
15 records provided in certain form; prohibiting mailing  
16 fee for copies provided by facsimile; and providing  
17 an effective date.

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

19 SECTION 1. AMENDATORY 76 O.S. 2001, Section 19, as last  
20 amended by Section 1, Chapter 88, O.S.L. 2005 (76 O.S. Supp. 2010,  
21 Section 19), is amended to read as follows:

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

1           2. Any person who is or has been a patient of a doctor,  
2 hospital, or other medical institution shall be furnished copies of  
3 all records, including any x-ray or other photograph or image,  
4 pertaining to that person's case upon request and upon the tender of  
5 the expense of the copy or copies. The cost of each copy, including  
6 a copy by facsimile, to such person or to the legal representative  
7 or surviving next of kin of such person, not including any x-ray or  
8 other photograph or image, shall not exceed One Dollar (\$1.00) for  
9 the first page and fifty cents (\$0.50) for each subsequent page.  
10 The physician, hospital or other medical professionals and  
11 institutions may produce the records in digital form at a cost not  
12 to exceed ten cents (\$0.10) per page or a total of Fifty Dollars  
13 (\$50.00), whichever is less. The cost of each x-ray or other  
14 photograph or image to such person or to the legal representative or  
15 surviving next of kin of such person shall not exceed Five Dollars  
16 (\$5.00) or the actual cost of reproduction, whichever is less. The  
17 physician, hospital, or other medical professionals and institutions  
18 may charge a patient for the actual cost of mailing the patient's  
19 requested medical records, but may not charge a fee for searching,  
20 retrieving, reviewing, and preparing medical records of the person.  
21 No mailing fee shall be charged for copies provided by facsimile.

22           3. The provisions of paragraphs 1 and 2 of this subsection  
23 shall not apply to psychological, psychiatric, mental health or  
24 substance abuse treatment records. In the case of psychological,

1 psychiatric, mental health or substance abuse treatment records,  
2 access to information contained in the records shall be obtained  
3 pursuant to Section 1-109 of Title 43A of the Oklahoma Statutes.

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

21 Psychological, psychiatric, mental health and substance abuse  
22 treatment records and information from psychological, psychiatric,  
23 mental health and substance abuse treatment practitioners may only  
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1 be obtained provided the requirements of Section 1-109 of Title 43A  
2 of the Oklahoma Statutes are met.

3 2. Any person who obtains any document pursuant to the  
4 provisions of this section shall provide copies of the document to  
5 any opposing party in the proceeding upon payment of the expense of  
6 copying the document pursuant to the provisions of this section.

7 C. This section shall not apply to the records of an inmate in  
8 a correctional institution when the correctional institution  
9 believes the release of such information to be a threat to the  
10 safety or security of the inmate or the institution.

11 SECTION 2. This act shall become effective November 1, 2011.

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