

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1563

By: Jordan

4
5 AS INTRODUCED

6 An Act relating to torts; amending 76 O.S. 2001,
7 Section 19, as last amended by Section 1, Chapter 88,
8 O.S.L. 2005 (76 O.S. Supp. 2010, Section 19), which
relates to access to medical records; clarifying
language; and providing an effective date.

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

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

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

20 2. Any person who is or has been a patient of a doctor,
21 hospital, or other medical institution shall be furnished copies of
22 all records, including any x-ray or other photograph or image,
23 pertaining to that person's case upon request and upon the tender of
24 the expense of the copy or copies. The cost of each copy to such

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

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

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

1 issue the physical or mental condition of any other person or
2 deceased person by or through whom the person rightfully claims,
3 that person shall be deemed to waive any privilege granted by law
4 concerning any communication made to a physician or health care
5 provider with reference to any physical or mental condition or any
6 knowledge obtained by the physician or health care provider by
7 personal examination of the patient; provided that, before any
8 communication, medical or hospital record, or testimony is admitted
9 in evidence in any proceeding, it must be material and relevant to
10 an issue therein, according to existing rules of evidence.

11 Psychological, psychiatric, mental health and substance abuse
12 treatment records and information from psychological, psychiatric,
13 mental health and substance abuse treatment practitioners may only
14 be obtained provided the requirements of Section 1-109 of Title 43A
15 of the Oklahoma Statutes are met.

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

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

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

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