

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2021

By: Sullivan

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5  
6 AS INTRODUCED

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

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

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

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

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

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

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

23 B. 1. In cases involving a claim for personal injury or death  
24 against any practitioner of the healing arts or a licensed hospital,

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

21 2. Any person who obtains any document pursuant to the  
22 provisions of this section shall provide copies of the document to  
23 any opposing party in the proceeding upon payment of the expense of  
24 copying the document pursuant to the provisions of this section.

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

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

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