

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 HOUSE BILL 2188

By: Schwartz of the House

and

6 David of the Senate

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9 COMMITTEE SUBSTITUTE

10 An Act relating to medical records; amending 76 O.S.  
11 2011, Section 19, which relates to access to medical  
12 records; setting uniform per-page cost of certain  
13 records; mandating fee for certain parties requesting  
14 records; requiring same costs for digital records as  
15 paper records under certain conditions; prohibiting  
16 postage charge if certain records delivered  
17 electronically; establishing maximum cost for  
18 reproducing certain records; proscribing certain fee  
19 if person is requesting their own records; and  
20 providing an effective date.

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

22 SECTION 1. AMENDATORY 76 O.S. 2011, Section 19, is  
23 amended to read as follows:

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

1 or image or pathology slide. Disclosure regarding a deceased  
2 patient shall require either a court order or a written release of  
3 an executor, administrator or personal representative appointed by  
4 the court, or if there is no such appointment, by the spouse of the  
5 patient or, if none, by any responsible member of the family of the  
6 patient. As used in this paragraph, "responsible family member"  
7 shall mean the parent, adult child, adult sibling or other adult  
8 relative who was actively involved in providing care to or  
9 monitoring the care of the patient as verified by the doctor,  
10 hospital or other medical institution responsible for the care and  
11 treatment of such person.

12 2. Any person who is or has been a patient of a doctor,  
13 hospital, or other medical institution shall be furnished copies of  
14 all records, including any x-ray, other photograph or image or  
15 pathology slide, pertaining to that person's case upon request and  
16 upon the tender of the ~~expense of the copy or copies~~ expenses  
17 enumerated in this paragraph. The cost of each copy to such person  
18 or to the ~~legal~~ personal representative, spouse or responsible  
19 family member of such person, not including any x-ray or other  
20 photograph or image or pathology slide, shall ~~not exceed One Dollar~~  
21 ~~(\$1.00) for the first page and~~ be fifty cents (\$0.50) for each  
22 ~~subsequent~~ page. Requests for medical records from attorneys,  
23 insurance companies and by way of subpoena shall be charged a base  
24 fee of Ten Dollars (\$10.00) in addition to the per page charges

1 required pursuant to this section, plus postage or delivery fee.

2 The physician, hospital or other medical professionals and  
3 institutions ~~may,~~ or their business associates as the term is  
4 defined in Section 160.103 of Title 45 of the United States Code of  
5 Federal Regulations shall produce the records in digital form at a  
6 ~~cost not to exceed twelve cents (\$0.12) per digital page~~ the rate of  
7 thirty cents (\$0.30) per page if:

8 a. the entire request can be reproduced from an  
9 electronic health record system,

10 b. the medical record is specifically requested to be  
11 delivered in electronic format, and

12 c. the medical record can be delivered electronically.

13 If a provider or business associate transmits the records  
14 electronically, no postage shall be charged but a delivery charge  
15 shall apply. In no event shall a charge for the reproduction of  
16 electronically stored and delivered medical records pursuant to this  
17 paragraph exceed Two Hundred Dollars (\$200.00) plus postage or  
18 delivery fee. The cost of each x-ray, other photograph or image, or  
19 pathology slide to such person or to the legal representative of  
20 such person shall ~~not exceed~~ be Five Dollars (\$5.00) ~~or the actual~~  
21 ~~cost of reproduction, whichever is less.~~ The physician, hospital,  
22 or other medical professionals and institutions ~~may charge a patient~~  
23 ~~for the actual cost of mailing the patient's requested medical~~  
24 ~~records, but may,~~ or their business associates as the term is

1 defined in Section 160.103 of Title 45 of the United States Code of  
2 Federal Regulations, shall not charge a person who requests their  
3 own record a fee for searching, retrieving, reviewing, and preparing  
4 medical records of the person. No mailing fee shall be charged for  
5 copies provided by facsimile.

6 3. The provisions of paragraphs 1 and 2 of this subsection  
7 shall not apply to psychological, psychiatric, mental health or  
8 substance abuse treatment records. In the case of psychological,  
9 psychiatric, mental health or substance abuse treatment records,  
10 access to information contained in the records shall be obtained  
11 pursuant to Section 1-109 of Title 43A of the Oklahoma Statutes.

12 B. 1. In cases involving a claim for personal injury or death  
13 against any practitioner of the healing arts or a licensed hospital,  
14 or a nursing facility or nursing home licensed pursuant to Section  
15 1-1903 of Title 63 of the Oklahoma Statutes arising out of patient  
16 care, where any person has placed the physical or mental condition  
17 of that person in issue by the commencement of any action,  
18 proceeding, or suit for damages, or where any person has placed in  
19 issue the physical or mental condition of any other person or  
20 deceased person by or through whom the person rightfully claims,  
21 that person shall be deemed to waive any privilege granted by law  
22 concerning any communication made to a physician or health care  
23 provider with reference to any physical or mental condition or any  
24 knowledge obtained by the physician or health care provider by

1 personal examination of the patient; provided that, before any  
2 communication, medical or hospital record, or testimony is admitted  
3 in evidence in any proceeding, it must be material and relevant to  
4 an issue therein, according to existing rules of evidence.

5 Psychological, psychiatric, mental health and substance abuse  
6 treatment records and information from psychological, psychiatric,  
7 mental health and substance abuse treatment practitioners may only  
8 be obtained provided the requirements of Section 1-109 of Title 43A  
9 of the Oklahoma Statutes are met.

10 2. Any person who obtains any document pursuant to the  
11 provisions of this section shall provide copies of the document to  
12 any opposing party in the proceeding upon payment of the expense of  
13 copying the document pursuant to the provisions of this section.

14 C. This section shall not apply to the records of an inmate in  
15 a correctional institution when the correctional institution  
16 believes the release of such information to be a threat to the  
17 safety or security of the inmate or the institution.

18 SECTION 2. This act shall become effective November 1, 2013.

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