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February 17, 2020

By: Hall

An Act relating to medical records; amending 76 O.S. 2011, Section 19, as last amended by Section 1, Chapter 100, O.S.L. 2015 (76 O.S. Supp. 2019, Section 19), which relates to access to medical records; authorizing access to certain billing information; modifying fee structure for access to medical records by certain entities; and providing an effective date.

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

SECTION 1. AMENDATORY 76 O.S. 2011, Section 19, as last amended by Section 1, Chapter 100, O.S.L. 2015 (76 O.S. Supp. 2019, Section 19), is amended to read as follows:

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 or image ~~or~~, pathology slide or the patient's medical bills.

Disclosure regarding a deceased patient shall require either a court order or a written release of an executor, administrator or personal representative appointed by the court, or if there is no such

1 appointment, by the spouse of the patient or, if none, by any  
2 responsible member of the family of the patient. As used in this  
3 paragraph, "responsible family member" shall mean the parent, adult  
4 child, adult sibling or other adult relative who was actively  
5 involved in providing care to or monitoring the care of the patient  
6 as verified by the doctor, hospital or other medical institution  
7 responsible for the care and treatment of such person.

8       2. Any person who is or has been a patient of a doctor,  
9 hospital, or other medical institution shall be furnished copies of  
10 all medical records, including any x-ray, other photograph or image  
11 ~~or~~, pathology slide, or all medical bills pertaining to that  
12 person's case upon request and upon the tender of the expenses  
13 enumerated in this paragraph. The cost of each copy to such person  
14 or to the personal representative, spouse or responsible family  
15 member of such person, not including any x-ray or other photograph  
16 or image or pathology slide, shall be fifty cents (\$0.50) for each  
17 page. Requests for medical records and medical bills from  
18 attorneys, insurance companies and by way of subpoena shall be  
19 charged a base fee of ~~Ten Dollars (\$10.00)~~ Twenty Dollars (\$20.00)  
20 in addition to the per page charges required pursuant to this  
21 section, plus postage or delivery fee. The base fee shall be  
22 charged regardless of whether any records related to the request are  
23 located. A fee of Fifteen Dollars (\$15.00) shall be charged if a  
24 certification or an affidavit by the provider regarding the

1 authenticity of the medical records or bills is requested. The  
2 physician, hospital or other medical professionals and institutions,  
3 or their business associates as the term is defined in Section  
4 160.103 of Title 45 of the United States Code of Federal Regulations  
5 shall produce the records in digital form at the rate of thirty  
6 cents (\$0.30) per page if:

- 7 a. the entire request can be reproduced from an  
8 electronic health record system,
- 9 b. the ~~medical record is~~ records are specifically  
10 requested to be delivered in electronic format, and
- 11 c. the ~~medical record~~ records can be delivered  
12 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 printed x-ray, other photograph or  
19 ~~image, or pathology slide~~ to such person or to the legal  
20 representative of such person shall be ~~Five Dollars (\$5.00)~~ Fifteen  
21 Dollars (\$15.00). If the x-ray, other photograph or image is  
22 provided on a CD/DVD or other electronic media, the fee shall be  
23 Twenty Dollars (\$20.00) per CD/DVD or other electronic media. The  
24 physician, hospital, or other medical professionals and

1 institutions, or their business associates as the term is defined in  
2 Section 160.103 of Title 45 of the United States Code of Federal  
3 Regulations, shall not charge a person who requests their own record  
4 a fee for searching, retrieving, reviewing, and preparing medical  
5 records of the person. No mailing fee shall be charged for copies  
6 provided by facsimile. All requests for medical records made  
7 pursuant to this subsection shall be subject to the fees described  
8 in this section regardless of where the copies or electronic  
9 versions of such records are actually produced.

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

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

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

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

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

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

22 SECTION 2. This act shall become effective November 1, 2020.

23 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES  
24 February 17, 2020 - DO PASS