

1 **SENATE FLOOR VERSION**

2 February 23, 2015

3 SENATE BILL NO. 128

By: David of the Senate

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5 Grau of the House

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8 An Act relating to medical records; amending 76 O.S.
9 2011, Section 19, as amended by Section 1, Chapter
10 273, O.S.L. 2013 (76 O.S. Supp. 2014, Section 19),
11 which relates to copies of medical records; requiring
12 certain requests be subject to certain fees; and
13 providing an effective date.

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

15 SECTION 1. AMENDATORY 76 O.S. 2011, Section 19, as
16 amended by Section 1, Chapter 273, O.S.L. 2013 (76 O.S. Supp. 2014,
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 or pathology slide. Disclosure regarding a deceased
23 patient shall require either a court order or a written release of
24 an executor, administrator or personal representative appointed by
the court, or if there is no such appointment, by the spouse of the

1 patient or, if none, by any responsible member of the family of the
2 patient. As used in this paragraph, "responsible family member"
3 shall mean the parent, adult child, adult sibling or other adult
4 relative who was actively involved in providing care to or
5 monitoring the care of the patient as verified by the doctor,
6 hospital or other medical institution responsible for the care and
7 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 records, including any x-ray, other photograph or image or
11 pathology slide, pertaining to that person's case upon request and
12 upon the tender of the expenses enumerated in this paragraph. The
13 cost of each copy to such person or to the personal representative,
14 spouse or responsible family member of such person, not including
15 any x-ray or other photograph or image or pathology slide, shall be
16 fifty cents (\$0.50) for each page. Requests for medical records
17 from attorneys, insurance companies and by way of subpoena shall be
18 charged a base fee of Ten Dollars (\$10.00) in addition to the per
19 page charges required pursuant to this section, plus postage or
20 delivery fee. The physician, hospital or other medical
21 professionals and institutions, or their business associates as the
22 term is defined in Section 160.103 of Title 45 of the United States
23 Code of Federal Regulations shall produce the records in digital
24 form at the rate of thirty cents (\$0.30) per page if:

- 1 a. the entire request can be reproduced from an
2 electronic health record system,
3 b. the medical record is specifically requested to be
4 delivered in electronic format, and
5 c. the medical record can be delivered electronically.

6 If a provider or business associate transmits the records
7 electronically, no postage shall be charged but a delivery charge
8 shall apply. In no event shall a charge for the reproduction of
9 electronically stored and delivered medical records pursuant to this
10 paragraph exceed Two Hundred Dollars (\$200.00) plus postage or
11 delivery fee. The cost of each x-ray, other photograph or image, or
12 pathology slide to such person or to the legal representative of
13 such person shall be Five Dollars (\$5.00). The physician, hospital,
14 or other medical professionals and institutions, or their business
15 associates as the term is defined in Section 160.103 of Title 45 of
16 the United States Code of Federal Regulations, shall not charge a
17 person who requests their own record a fee for searching,
18 retrieving, reviewing, and preparing medical records of the person.
19 No mailing fee shall be charged for copies provided by facsimile.

20 All requests for medical records made pursuant to this subsection
21 shall be subject to the fees described in this section regardless of
22 where the copies or electronic versions of such records are actually
23 produced.

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

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

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

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

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

13 SECTION 2. This act shall become effective November 1, 2015.

14 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
15 February 23, 2015 - DO PASS
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