

1-1 By: Thompson of Harris (Senate Sponsor - Zaffirini) H.B. No. 549  
 1-2 (In the Senate - Received from the House April 19, 2021;  
 1-3 May 6, 2021, read first time and referred to Committee on Health &  
 1-4 Human Services; May 17, 2021, reported adversely, with favorable  
 1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;  
 1-6 May 17, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 549 By: Seliger

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to exemptions from liability for certain professionals for  
 1-22 the disclosure of certain mental health information.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 611.002, Health and Safety Code, is  
 1-25 amended by amending Subsection (b) and adding Subsection (b-1) to  
 1-26 read as follows:

1-27 (b) Confidential communications or records may not be  
 1-28 disclosed except as provided by Section 611.004, 611.0041, or  
 1-29 611.0045.

1-30 (b-1) No exception to the privilege of confidentiality  
 1-31 under Section 611.004 may be construed to create an independent  
 1-32 duty or requirement to disclose the confidential information to  
 1-33 which the exception applies.

1-34 SECTION 2. Section 611.004, Health and Safety Code, is  
 1-35 amended by amending Subsection (a) and adding Subsection (a-1) to  
 1-36 read as follows:

1-37 (a) A professional may disclose confidential information  
 1-38 only:

1-39 (1) to a governmental agency if the disclosure is  
 1-40 required or authorized by law;

1-41 (2) to medical, mental health, or law enforcement  
 1-42 personnel if the professional determines that there is a  
 1-43 probability of imminent physical injury by the patient to the  
 1-44 patient or others or there is a probability of immediate mental or  
 1-45 emotional injury to the patient;

1-46 (3) to qualified personnel for management audits,  
 1-47 financial audits, program evaluations, or research, in accordance  
 1-48 with Subsection (b);

1-49 (4) to a person who has the written consent of the  
 1-50 patient, or a parent if the patient is a minor, or a guardian if the  
 1-51 patient has been adjudicated as incompetent to manage the patient's  
 1-52 personal affairs;

1-53 (5) to the patient's personal representative if the  
 1-54 patient is deceased;

1-55 (6) to individuals, corporations, or governmental  
 1-56 agencies involved in paying or collecting fees for mental or  
 1-57 emotional health services provided by a professional;

1-58 (7) to other professionals and personnel under the  
 1-59 professionals' direction who participate in the diagnosis,  
 1-60 evaluation, or treatment of the patient;

2-1 (8) in an official legislative inquiry relating to a  
2-2 state hospital or state school as provided by Subsection (c);  
2-3 (9) to designated persons or personnel of a  
2-4 correctional facility in which a person is detained if the  
2-5 disclosure is for the sole purpose of providing treatment and  
2-6 health care to the person in custody;  
2-7 (10) to an employee or agent of the professional who  
2-8 requires mental health care information to provide mental health  
2-9 care services or in complying with statutory, licensing, or  
2-10 accreditation requirements, if the professional has taken  
2-11 appropriate action to ensure that the employee or agent:  
2-12 (A) will not use or disclose the information for  
2-13 any other purposes; and  
2-14 (B) will take appropriate steps to protect the  
2-15 information; or  
2-16 (11) to satisfy a request for medical records of a  
2-17 deceased or incompetent person pursuant to Section 74.051(e), Civil  
2-18 Practice and Remedies Code.  
2-19 (a-1) No civil, criminal, or administrative cause of action  
2-20 exists against a person described by Section 611.001(2)(A) or (B)  
2-21 for the disclosure of confidential information in accordance with  
2-22 Subsection (a)(2). A cause of action brought against the person for  
2-23 the disclosure of the confidential information must be dismissed  
2-24 with prejudice.  
2-25 SECTION 3. Section 159.002, Occupations Code, is amended by  
2-26 adding Subsection (c-1) to read as follows:  
2-27 (c-1) No exception to the privilege of confidentiality  
2-28 under Section 159.003 or 159.004 may be construed to create an  
2-29 independent duty or requirement to disclose the confidential  
2-30 information to which the exception applies.  
2-31 SECTION 4. Section 159.004, Occupations Code, is amended to  
2-32 read as follows:  
2-33 Sec. 159.004. EXCEPTIONS TO CONFIDENTIALITY IN OTHER  
2-34 SITUATIONS. (a) An exception to the privilege of confidentiality  
2-35 in a situation other than a court or administrative proceeding,  
2-36 allowing disclosure of confidential information by a physician,  
2-37 exists only with respect to the following:  
2-38 (1) a governmental agency, if the disclosure is  
2-39 required or authorized by law;  
2-40 (2) medical, mental health, or law enforcement  
2-41 personnel, if the physician determines that there is a probability  
2-42 of:  
2-43 (A) imminent physical injury to the patient, the  
2-44 physician, or another person; or  
2-45 (B) immediate mental or emotional injury to the  
2-46 patient;  
2-47 (3) qualified personnel for research or for a  
2-48 management audit, financial audit, or program evaluation, but the  
2-49 personnel may not directly or indirectly identify a patient in any  
2-50 report of the research, audit, or evaluation or otherwise disclose  
2-51 identity in any manner;  
2-52 (4) those parts of the medical records reflecting  
2-53 specific services provided if necessary in the collection of fees  
2-54 for medical services provided by a physician, professional  
2-55 association, or other entity qualified to provide or arrange for  
2-56 medical services;  
2-57 (5) a person who has consent, as provided by Section  
2-58 159.005;  
2-59 (6) a person, corporation, or governmental agency  
2-60 involved in the payment or collection of fees for medical services  
2-61 provided by a physician;  
2-62 (7) another physician or other personnel acting under  
2-63 the direction of the physician who participate in the diagnosis,  
2-64 evaluation, or treatment of the patient;  
2-65 (8) an official legislative inquiry regarding state  
2-66 hospitals or state schools, if:  
2-67 (A) information or a record that identifies a  
2-68 patient or client is not released for any purpose unless proper  
2-69 consent to the release is given by the patient; and

3-1 (B) only records created by the state hospital or  
3-2 school or its employees are included; or

3-3 (9) health care personnel of a penal or other  
3-4 custodial institution in which the patient is detained if the  
3-5 disclosure is for the sole purpose of providing health care to the  
3-6 patient.

3-7 (b) No civil, criminal, or administrative cause of action  
3-8 exists against a physician for the disclosure of confidential  
3-9 information in accordance with Subsection (a)(2). A cause of  
3-10 action brought against a physician for the disclosure of the  
3-11 confidential information must be dismissed with prejudice.

3-12 SECTION 5. The changes in law made by this Act apply only to  
3-13 a disclosure of confidential information made on or after the  
3-14 effective date of this Act. A disclosure made before the effective  
3-15 date of this Act is governed by the law in effect on the date the  
3-16 disclosure was made, and that law is continued in effect for that  
3-17 purpose.

3-18 SECTION 6. This Act takes effect September 1, 2021.

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