

1-1 By: Klick, Lalani H.B. No. 49
1-2 (Senate Sponsor - Kolkhorst)
1-3 (In the Senate - Received from the House April 5, 2023;
1-4 April 12, 2023, read first time and referred to Committee on Health
1-5 & Human Services; April 27, 2023, reported favorably by the
1-6 following vote: Yeas 9, Nays 0; April 27, 2023, sent to printer.)

1-7 COMMITTEE VOTE

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

1-18 A BILL TO BE ENTITLED
1-19 AN ACT

1-20 relating to public access to certain hospital investigation
1-21 information and materials.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section [241.051](#), Health and Safety Code, is
1-24 amended by amending Subsections (d) and (e) and adding Subsections
1-25 (f), (g), and (h) to read as follows:

1-26 (d) Except as provided by Subsection (e), all [All]
1-27 information and materials in the possession of or obtained or
1-28 compiled by the commission [department] in connection with a
1-29 complaint and investigation concerning a hospital are confidential
1-30 and not subject to disclosure under Chapter [552](#) [Section [552.001 et](#)
1-31 seq.], Government Code, and not subject to disclosure, discovery,
1-32 subpoena, or other means of legal compulsion for their release to
1-33 anyone other than the commission [department] or its employees or
1-34 agents involved in the enforcement action except that this
1-35 information may be disclosed to:

1-36 (1) persons involved with the commission [department]
1-37 in the enforcement action against the hospital;

1-38 (2) the hospital that is the subject of the
1-39 enforcement action, or the hospital's authorized representative;

1-40 (3) appropriate state or federal agencies that are
1-41 authorized to inspect, survey, or investigate hospital services;

1-42 (4) law enforcement agencies; and

1-43 (5) persons engaged in bona fide research, if all
1-44 individual-identifying and hospital-identifying information has
1-45 been deleted.

1-46 (e) The following information is subject to disclosure in
1-47 accordance with Chapter [552](#) [Section [552.001 et seq.](#)], Government
1-48 Code, only to the extent that all personally identifiable
1-49 information of a patient or health care provider is omitted from the
1-50 information:

1-51 (1) a notice of the hospital's alleged violation
1-52 [against the hospital], which must [notice shall] include the
1-53 provisions of law [which] the hospital is alleged to have violated,
1-54 and a general statement of the nature of the alleged violation;

1-55 (2) the number of investigations the commission has
1-56 conducted of the hospital;

1-57 (3) the pleadings in any [the] administrative
1-58 proceeding to impose a penalty against the hospital for the alleged
1-59 violation;

1-60 (4) the outcome of each investigation the commission
1-61 conducted of the hospital, including:

2-1 (A) the issuance of a reprimand;
 2-2 (B) the denial or revocation of a license;
 2-3 (C) the adoption of a corrective action plan; or
 2-4 (D) the imposition of an administrative penalty
 2-5 and the penalty amount; and
 2-6 (5) ~~[(3)]~~ a final decision, investigative report, or
 2-7 order issued by the commission to address the alleged violation
 2-8 [department].
 2-9 (f) Not later than the 90th day after the date the
 2-10 commission issues a final decision, investigative report, or order
 2-11 to address a hospital's alleged violation, the commission shall
 2-12 post on the commission's Internet website:
 2-13 (1) the notice of alleged violation described by
 2-14 Subsection (e)(1);
 2-15 (2) the name of the hospital;
 2-16 (3) the geographic location of the hospital;
 2-17 (4) the date the commission issued the final decision,
 2-18 investigative report, or order; and
 2-19 (5) the outcome of the commission's investigation of
 2-20 the hospital that includes the information described by Subsection
 2-21 (e)(4).
 2-22 (g) The commission may not remove information posted on the
 2-23 commission's Internet website under Subsection (f) before the
 2-24 second anniversary of the date the information is posted on the
 2-25 Internet website.
 2-26 (h) Nothing in this section precludes a hospital from
 2-27 releasing medical records in the hospital's possession:
 2-28 (1) on the request of the patient who is the subject of
 2-29 the record; or
 2-30 (2) to the patient, the parent or guardian of a patient
 2-31 who is a minor or incapacitated, or the personal representative of a
 2-32 patient who is deceased.
 2-33 SECTION 2. Section 577.013, Health and Safety Code, is
 2-34 amended by amending Subsections (d) and (e) and adding Subsections
 2-35 (f), (g), (h), and (i) to read as follows:
 2-36 (d) Except as provided by Subsection (e), all [All]
 2-37 information and materials in the possession of or obtained or
 2-38 compiled by the commission [department] in connection with a
 2-39 complaint and investigation concerning a mental hospital licensed
 2-40 under this chapter are confidential and not subject to disclosure,
 2-41 discovery, subpoena, or other means of legal compulsion for their
 2-42 release to anyone other than the commission [department] or its
 2-43 employees or agents involved in the enforcement action except that
 2-44 this information may be disclosed to:
 2-45 (1) persons involved with the commission [department]
 2-46 in the enforcement action against the licensed mental hospital;
 2-47 (2) the licensed mental hospital that is the subject
 2-48 of the enforcement action, or the licensed mental hospital's
 2-49 authorized representative;
 2-50 (3) appropriate state or federal agencies that are
 2-51 authorized to inspect, survey, or investigate licensed mental
 2-52 hospital services;
 2-53 (4) law enforcement agencies; and
 2-54 (5) persons engaged in bona fide research, if all
 2-55 individual-identifying information and information identifying the
 2-56 licensed mental hospital has been deleted.
 2-57 (e) The following information is subject to disclosure in
 2-58 accordance with Chapter 552 [Section 552.001 et seq.], Government
 2-59 Code, only to the extent that all personally identifiable
 2-60 information of a patient or health care provider is omitted from the
 2-61 information:
 2-62 (1) a notice of the licensed mental hospital's alleged
 2-63 violation [against the licensed mental hospital], which must
 2-64 [notice shall] include the provisions of law [which] the licensed
 2-65 mental hospital is alleged to have violated, and the nature of the
 2-66 alleged violation;
 2-67 (2) the number of investigations the commission has
 2-68 conducted of the licensed mental hospital;
 2-69 (3) the pleadings in any [the] administrative

3-1 proceeding to impose a penalty against the licensed mental hospital
3-2 for the alleged violation;

3-3 (4) the outcome of each investigation the commission
3-4 conducted of the licensed mental hospital, including:

3-5 (A) the issuance of a reprimand;

3-6 (B) the denial or revocation of a license;

3-7 (C) the adoption of a corrective action plan; or

3-8 (D) the imposition of an administrative penalty

3-9 and the penalty amount; and

3-10 (5) ~~(3)~~ a final decision, investigative report, or
3-11 order issued by the commission to address the alleged violation
3-12 [department].

3-13 (f) Not later than the 90th day after the date the
3-14 commission issues a final decision, investigative report, or order
3-15 to address a licensed mental hospital's alleged violation, the
3-16 commission shall post on the commission's Internet website:

3-17 (1) the notice of alleged violation described by
3-18 Subsection (e)(1);

3-19 (2) the name of the licensed mental hospital;

3-20 (3) the geographic location of the licensed mental
3-21 hospital;

3-22 (4) the date the commission issued the final decision,
3-23 investigative report, or order; and

3-24 (5) the outcome of the commission's investigation of
3-25 the licensed mental hospital that includes the information
3-26 described by Subsection (e)(4).

3-27 (g) The commission may not remove information posted on the
3-28 commission's Internet website under Subsection (f) before the
3-29 second anniversary of the date the information is posted on the
3-30 Internet website.

3-31 (h) Nothing in this section precludes a licensed mental
3-32 hospital from releasing medical records in the licensed mental
3-33 hospital's possession:

3-34 (1) on request of the patient who is the subject of the
3-35 record; or

3-36 (2) to the patient, the parent or guardian of a patient
3-37 who is a minor or incapacitated, or the personal representative of a
3-38 patient who is deceased.

3-39 (i) In this section, "commission" means the Health and Human
3-40 Services Commission.

3-41 SECTION 3. The changes in law made by this Act apply only to
3-42 an investigation of an alleged violation by a hospital or licensed
3-43 mental hospital that is finalized on or after the effective date of
3-44 this Act.

3-45 SECTION 4. This Act takes effect September 1, 2023.

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