

Amend SB 211 as follows:

(1) Add the following appropriately numbered SECTION to the bill and renumber the SECTIONS of the bill appropriately:

SECTION _____. Subchapter E, Chapter 351, Occupations Code, is amended by adding Section 351.2045 to read as follows:

Sec. 351.2045. CONFIDENTIALITY OF INVESTIGATION FILES. (a) The board's investigation files are confidential, privileged, and not subject to discovery, subpoena, or any other means of legal compulsion for release other than to the board or an employee or agent of the board.

(b) The board shall share information in investigation files, on request, with another state or federal regulatory agency or with a local, state, or federal law enforcement agency regardless of whether the investigation has been completed. The board is not required to disclose under this subsection information that is an attorney-client communication, an attorney work product, or other information protected by a privilege recognized by the Texas Rules of Civil Procedure or the Texas Rules of Evidence.

(c) On the completion of the investigation and before a hearing under Section 351.503, the board shall provide to the license holder, subject to any other privilege or restriction set forth by rule, statute, or legal precedent, access to all information in the board's possession that the board intends to offer into evidence in presenting its case in chief at the contested case hearing on the complaint. The board is not required to provide:

(1) a board investigative report or memorandum;
(2) the identity of a nontestifying complainant; or
(3) attorney-client communications, attorney work product, or other materials covered by a privilege recognized by the Texas Rules of Civil Procedure or the Texas Rules of Evidence.

(d) Notwithstanding Subsection (a), the board may:

(1) disclose a complaint to the affected license holder; and

(2) provide to a complainant the license holder's response to the complaint, if providing the response is considered by the board to be necessary to investigate the complaint.

(e) This section does not prohibit the board or another party in a disciplinary action from offering into evidence in a contested case under Chapter 2001, Government Code, a record, document, or other information obtained or created during an investigation.

(2) In SECTION 4 of the bill, following Subsection (c) of that section (committee printing page 3, after line 21), insert the following:

(d) Section 351.2045, Occupations Code, as added by this Act, applies to a complaint or investigation pending on the effective date of this Act or filed on or after that date.