

1-1 By: Nixon (Senate Sponsor - Duncan) H.B. No. 742
1-2 (In the Senate - Received from the House March 29, 2005;
1-3 March 30, 2005, read first time and referred to Committee on State
1-4 Affairs; May 2, 2005, reported favorably by the following vote:
1-5 Yeas 7, Nays 0; May 2, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to updating citations to Chapter 74, Civil Practice and
1-9 Remedies Code, in Chapter 159, Occupations Code.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 159.003(a), Occupations Code, is amended
1-12 to read as follows:

1-13 (a) An exception to the privilege of confidentiality in a
1-14 court or administrative proceeding exists:

1-15 (1) in a proceeding brought by a patient against a
1-16 physician, including:

1-17 (A) a malpractice proceeding; or

1-18 (B) a criminal proceeding or license revocation
1-19 proceeding in which the patient is a complaining witness and
1-20 disclosure is relevant to a claim or defense of the physician;

1-21 (2) if the patient or a person authorized to act on the
1-22 patient's behalf submits a written consent to the release of
1-23 confidential information as provided by Section 159.005;

1-24 (3) in a proceeding to substantiate and collect on a
1-25 claim for medical services provided to the patient;

1-26 (4) in a civil action or administrative proceeding, if
1-27 relevant, brought by the patient or a person on the patient's
1-28 behalf, if the patient or person is attempting to recover monetary
1-29 damages for a physical or mental condition including the patient's
1-30 death;

1-31 (5) in a disciplinary investigation or proceeding
1-32 conducted under this subtitle, if the board protects the identity
1-33 of any patient whose billing or medical records are examined other
1-34 than a patient:

1-35 (A) for whom an exception exists under
1-36 Subdivision (1); or

1-37 (B) who has submitted written consent to the
1-38 release of the billing or medical records as provided by Section
1-39 159.005;

1-40 (6) in a criminal investigation of a physician in
1-41 which the board is participating, or assisting in the investigation
1-42 or proceeding by providing certain billing or medical records
1-43 obtained from the physician, if the board protects the identity of a
1-44 patient whose billing or medical records are provided in the
1-45 investigation or proceeding other than a patient:

1-46 (A) for whom an exception exists under
1-47 Subdivision (1); or

1-48 (B) who has submitted written consent to the
1-49 release of the billing or medical records as provided by Section
1-50 159.005;

1-51 (7) in an involuntary civil commitment proceeding,
1-52 proceeding for court-ordered treatment, or probable cause hearing
1-53 under Chapter 462, 574, or 593, Health and Safety Code;

1-54 (8) if the patient's physical or mental condition is
1-55 relevant to the execution of a will;

1-56 (9) if the information is relevant to a proceeding
1-57 brought under Section 159.009;

1-58 (10) in a criminal prosecution in which the patient is
1-59 a victim, witness, or defendant;

1-60 (11) to satisfy a request for billing or medical
1-61 records of a deceased or incompetent person under Section
1-62 74.051(e), Civil Practice and Remedies Code [~~4.01(e), Medical~~
1-63 ~~Liability and Insurance Improvement Act of Texas (Article 4590i,~~
1-64 ~~Vernon's Texas Civil Statutes)] ; or~~

2-1 (12) to a court or a party to an action under a court
2-2 order or court subpoena.

2-3 SECTION 2. This Act applies only to a request made on or
2-4 after the effective date of this Act.

2-5 SECTION 3. This Act takes effect September 1, 2005.

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