

By: Gallegos

S.B. No. 1113

A BILL TO BE ENTITLED

AN ACT

relating to allowing a hospital to release protected health information of a patient to emergency medical services providers for treatment, payment, and health care operations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 241.153, Health and Safety Code, is amended to read as follows:

Sec. 241.153. DISCLOSURE WITHOUT WRITTEN AUTHORIZATION. A patient's health care information may be disclosed without the patient's authorization if the disclosure is:

(1) directory information, unless the patient has instructed the hospital not to make the disclosure or the directory information is otherwise protected by state or federal law;

(2) to a health care provider who is rendering health care to the patient when the request for the disclosure is made;

(3) to a transporting emergency medical services provider for the ~~[sole]~~ purpose of:

(A) treatment or payment, as those terms are defined by the regulations adopted under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191)  
~~[determining the patient's diagnosis and the outcome of the patient's hospital admission]; or~~

(B) the following health care operations described by the regulations adopted under the Health Insurance

1 Portability and Accountability Act of 1996 (Pub. L. No. 104-191):

2 (i) quality assessment and improvement  
3 activities;

4 (ii) specified insurance functions;

5 (iii) conducting or arranging for medical  
6 reviews; or

7 (iv) competency assurance activities;

8 (4) to a member of the clergy specifically designated  
9 by the patient;

10 (5) to a qualified organ or tissue procurement  
11 organization as defined in Section 692.002 for the purpose of  
12 making inquiries relating to donations according to the protocol  
13 referred to in Section 692.013(d);

14 (6) to a prospective health care provider for the  
15 purpose of securing the services of that health care provider as  
16 part of the patient's continuum of care, as determined by the  
17 patient's attending physician;

18 (7) to a person authorized to consent to medical  
19 treatment under Chapter 313 or to a person in a circumstance  
20 exempted from Chapter 313 to facilitate the adequate provision of  
21 treatment;

22 (8) to an employee or agent of the hospital who  
23 requires health care information for health care education, quality  
24 assurance, or peer review or for assisting the hospital in the  
25 delivery of health care or in complying with statutory, licensing,  
26 accreditation, or certification requirements and if the hospital  
27 takes appropriate action to ensure that the employee or agent:

1                   (A) will not use or disclose the health care  
2 information for any other purpose; and

3                   (B) will take appropriate steps to protect the  
4 health care information;

5                   (9) to a federal, state, or local government agency or  
6 authority to the extent authorized or required by law;

7                   (10) to a hospital that is the successor in interest to  
8 the hospital maintaining the health care information;

9                   (11) to the American Red Cross for the specific  
10 purpose of fulfilling the duties specified under its charter  
11 granted as an instrumentality of the United States government;

12                   (12) to a regional poison control center, as the term  
13 is used in Chapter 777, to the extent necessary to enable the center  
14 to provide information and education to health professionals  
15 involved in the management of poison and overdose victims,  
16 including information regarding appropriate therapeutic use of  
17 medications, their compatibility and stability, and adverse drug  
18 reactions and interactions;

19                   (13) to a health care utilization review agent who  
20 requires the health care information for utilization review of  
21 health care under Article 21.58A, Insurance Code;

22                   (14) for use in a research project authorized by an  
23 institutional review board under federal law;

24                   (15) to health care personnel of a penal or other  
25 custodial institution in which the patient is detained if the  
26 disclosure is for the sole purpose of providing health care to the  
27 patient;

1           (16) to facilitate reimbursement to a hospital, other  
2 health care provider, or the patient for medical services or  
3 supplies;

4           (17) to a health maintenance organization for purposes  
5 of maintaining a statistical reporting system as required by a rule  
6 adopted by a state agency or regulations adopted under the federal  
7 Health Maintenance Organization Act of 1973, as amended (42 U.S.C.  
8 Section 300 et seq.);

9           (18) to satisfy a request for medical records of a  
10 deceased or incompetent person pursuant to Section 74.051(e), Civil  
11 Practice and Remedies Code [~~4.01(e), Medical Liability and~~  
12 ~~Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas~~  
13 ~~Civil Statutes)~~];

14           (19) to comply with a court order except as provided by  
15 Subdivision (20); or

16           (20) related to a judicial proceeding in which the  
17 patient is a party and the disclosure is requested under a subpoena  
18 issued under:

19                   (A) the Texas Rules of Civil Procedure or Code of  
20 Criminal Procedure; or

21                   (B) Chapter 121, Civil Practice and Remedies  
22 Code.

23       SECTION 2. This Act takes effect September 1, 2005.