

BILL ANALYSIS

C.S.H.B. 2446
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Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current statute makes a record of the identity, diagnosis, evaluation, or treatment of a patient by a physician that is created or maintained by a physician confidential and privileged and prohibits the disclosure of that information with certain exceptions. Currently, certain inmate health information may not be disclosed in connection with an internal disciplinary investigation of the use of force by certain law enforcement personnel unless the inmate's authorization, a court order, or a court subpoena is obtained. C.S.H.B. 2446 provides for the release of certain confidential inmate medical information pertaining to such a disciplinary investigation under certain circumstances.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2446 amends the Occupations Code to establish an exception to the privilege of confidentiality allowing disclosure of confidential information by a physician with respect to an administrative request by a law enforcement official, including an administrative subpoena or summons, a civil or an authorized investigative demand, or a similar process authorized under law, if the following conditions are met: the information sought is relevant and material to an internal investigation of the use of force by a law enforcement officer, corrections officer, or county jailer against a patient, regardless of whether the patient is incarcerated at the time of the request; the request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and de-identified protected health information cannot reasonably be used to conduct the investigation.

C.S.H.B. 2446 clarifies that its provisions do not authorize the release of confidential information to investigate or substantiate criminal charges against a patient. The bill provides for the meaning of "de-identified protected health information" by reference to the Health and Safety Code.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2446 differs from the original by including as a condition for disclosure of confidential information by a physician for purposes of certain internal law enforcement investigations to be allowed that the information sought is relevant and material to such an investigation, rather than relevant to such an investigation, as in the original.

C.S.H.B. 2446 differs from the original by including as a condition for disclosure to be allowed that the administrative request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought, whereas the original does not include such a condition.