

By: Villarreal, Burkett

H.B. No. 868

A BILL TO BE ENTITLED

1 AN ACT
2 relating to exceptions to mental health information disclosure
3 prohibitions.

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

5 SECTION 1. Section 611.004, Health and Safety Code, is
6 amended by amending Subsection (a) and adding Subsections (e) and
7 (f) to read as follows:

8 (a) Except as provided by Subsections (e) and (f), a [A]
9 professional may disclose confidential information only:

10 (1) to a governmental agency if the disclosure is
11 required or authorized by law;

12 (2) to medical or law enforcement personnel if the
13 professional determines that there is a probability of imminent
14 physical injury by the patient to the patient or others or there is
15 a probability of immediate mental or emotional injury to the
16 patient;

17 (2-a) to the patient's immediate family if:

18 (A) the patient has communicated to the
19 professional an explicit threat of imminent death or serious
20 physical harm to the patient or an identifiable person or group of
21 persons;

22 (B) the professional determines that the patient
23 has the apparent intent and ability to carry out that threat; and

24 (C) the professional determines in good faith

1 that disclosure of the information is necessary to protect the
2 health and safety of the patient or identifiable person or group of
3 persons at risk, as appropriate;

4 (2-b) to an identifiable person or group of persons at
5 risk if:

6 (A) the patient has communicated to the
7 professional an explicit threat of imminent death or serious
8 physical harm to that identifiable person or group of persons;

9 (B) the professional determines that the patient
10 has the apparent intent and ability to carry out that threat; and

11 (C) the professional determines in good faith
12 that disclosure of the information is necessary to protect the
13 health and safety of that identifiable person or group of persons at
14 risk;

15 (3) to qualified personnel for management audits,
16 financial audits, program evaluations, or research, in accordance
17 with Subsection (b);

18 (4) to a person who has the written consent of the
19 patient, or a parent if the patient is a minor, or a guardian if the
20 patient has been adjudicated as incompetent to manage the patient's
21 personal affairs;

22 (5) to the patient's personal representative if the
23 patient is deceased;

24 (6) to individuals, corporations, or governmental
25 agencies involved in paying or collecting fees for mental or
26 emotional health services provided by a professional;

27 (7) to other professionals and personnel under the

1 professionals' direction who participate in the diagnosis,
2 evaluation, or treatment of the patient;

3 (8) in an official legislative inquiry relating to a
4 state hospital or state school as provided by Subsection (c);

5 (9) to designated persons or personnel of a
6 correctional facility in which a person is detained if the
7 disclosure is for the sole purpose of providing treatment and
8 health care to the person in custody;

9 (10) to an employee or agent of the professional who
10 requires mental health care information to provide mental health
11 care services or in complying with statutory, licensing, or
12 accreditation requirements, if the professional has taken
13 appropriate action to ensure that the employee or agent:

14 (A) will not use or disclose the information for
15 any other purposes; and

16 (B) will take appropriate steps to protect the
17 information; ~~or~~

18 (11) to satisfy a request for medical records of a
19 deceased or incompetent person pursuant to Section 74.051(e), Civil
20 Practice and Remedies Code; or

21 (12) to the patient's family members or friends, if the
22 information concerns:

23 (A) the patient's location;

24 (B) the patient's anticipated stay at the
25 location;

26 (C) the visiting hours, if any, of the patient's
27 location;

1 (D) whether the patient needs clothing or other
2 personal items;

3 (E) the professional's opinion regarding the
4 duration of the patient's stay in a facility, if applicable; or

5 (F) the need for commitment of the patient.

6 (e) A professional may disclose confidential information to
7 a person described by Subsection (a)(12) only when:

8 (1) if the patient has capacity, the professional
9 first obtains the patient's consent to the disclosure, or the
10 professional gives the patient an opportunity to object to the
11 disclosure, including an opportunity to object before the patient
12 actually consults with or is interviewed by the professional, and
13 the patient does not object to the disclosure; or

14 (2) if the patient lacks capacity, the professional
15 believes that the disclosure of confidential information will
16 facilitate the patient's recovery, and the professional has a
17 reasonable belief that the patient would not object to the
18 disclosure of confidential information.

19 (f) A patient who regains capacity may prohibit continued
20 disclosures of confidential information by a professional to a
21 person described by Subsection (a)(12).

22 SECTION 2. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2013.