

By: Villarreal, Burkett

H.B. No. 868

Substitute the following for H.B. No. 868:

By: Fallon

C.S.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 (3) to qualified personnel for management audits,  
18 financial audits, program evaluations, or research, in accordance  
19 with Subsection (b);

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

24 (5) to the patient's personal representative if the

1 patient is deceased;

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

5 (7) to other professionals and personnel under the  
6 professionals' direction who participate in the diagnosis,  
7 evaluation, or treatment of the patient;

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

10 (9) to designated persons or personnel of a  
11 correctional facility in which a person is detained if the  
12 disclosure is for the sole purpose of providing treatment and  
13 health care to the person in custody;

14 (10) to an employee or agent of the professional who  
15 requires mental health care information to provide mental health  
16 care services or in complying with statutory, licensing, or  
17 accreditation requirements, if the professional has taken  
18 appropriate action to ensure that the employee or agent:

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

21 (B) will take appropriate steps to protect the  
22 information; ~~or~~

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

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

1           (A) the patient's location;

2           (B) the patient's anticipated stay at the  
3 location;

4           (C) the visiting hours, if any, of the patient's  
5 location;

6           (D) whether the patient needs clothing or other  
7 personal items;

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

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

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

13           (1) if the patient has capacity, the professional  
14 first obtains the patient's consent to the disclosure, or the  
15 professional gives the patient an opportunity to object to the  
16 disclosure, including an opportunity to object before the patient  
17 actually consults with or is interviewed by the professional, and  
18 the patient does not object to the disclosure; or

19           (2) if the patient lacks capacity, the professional  
20 believes that the disclosure of confidential information will  
21 facilitate the patient's recovery, and the professional has a  
22 reasonable belief that the patient would not object to the  
23 disclosure of confidential information.

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

27           SECTION 2. This Act takes effect immediately if it receives

C.S.H.B. No. 868

1 a vote of two-thirds of all the members elected to each house, as  
2 provided by Section 39, Article III, Texas Constitution. If this  
3 Act does not receive the vote necessary for immediate effect, this  
4 Act takes effect September 1, 2013.