

By: Villarreal

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 611.001, Health and Safety Code, is  
6 amended by adding Subdivision (3) to read as follows:

7 (3) "Mental health services provider" means an  
8 unlicensed individual who performs mental health services for a  
9 patient, including evaluation and coordination of services.

10 SECTION 2. Section 611.004, Health and Safety Code, is  
11 amended by amending Subsection (a) and adding Subsection (e) to  
12 read as follows:

13 (a) A professional may disclose confidential information  
14 only:

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

17 (2) to medical personnel, mental health services  
18 providers, or law enforcement personnel if the professional  
19 determines that there is a probability of imminent physical injury  
20 by the patient to the patient or others or there is a probability of  
21 immediate mental or emotional injury to the patient;

22 (3) to qualified personnel for management audits,  
23 financial audits, program evaluations, or research, in accordance  
24 with Subsection (b);

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

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

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

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

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

15          (9) to designated persons or personnel of a  
16 correctional facility in which a person is detained if the  
17 disclosure is for the sole purpose of providing treatment and  
18 health care to the person in custody;

19          (10) to an employee or agent of the professional who  
20 requires mental health care information to provide mental health  
21 care services or in complying with statutory, licensing, or  
22 accreditation requirements, if the professional has taken  
23 appropriate action to ensure that the employee or agent:

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

26                 (B) will take appropriate steps to protect the  
27 information; [~~or~~]

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

4           (12) to a mental health services provider if:

5           (A) the information is nonmedical demographic  
6 information about a patient, including address, name, or phone  
7 number; and

8           (B) the professional determines that the  
9 information is necessary for the mental health services provider to  
10 coordinate the provision of services to the patient; or

11           (13) to a person who is considered by the professional  
12 as willing and capable of contributing substantially to the  
13 patient's recovery, if the professional determines that disclosing  
14 the information will assist the person in making that contribution.

15           (e) A person described by Subsection (a)(2) who receives  
16 confidential information under that subsection is immune from civil  
17 or criminal liability from an action taken based on the information  
18 received if the action is taken in good faith. If the person is a  
19 professional or a mental health services provider and the patient  
20 continues to receive regular treatment or services from the person,  
21 the person must attempt to obtain accurate medical or mental health  
22 records regarding the patient as necessary to provide treatment or  
23 services.

24           SECTION 3. This Act takes effect immediately if it receives  
25 a vote of two-thirds of all the members elected to each house, as  
26 provided by Section 39, Article III, Texas Constitution. If this  
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2013.