

House Bill 1779
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

SECTION 1. Section 159.003(a), Occupations Code, is amended to read as follows:

(a) An exception to the privilege of confidentiality in a court or administrative proceeding exists:

(1) in a proceeding brought by a patient against a physician, including:

(A) a malpractice proceeding; or

(B) a criminal proceeding or license revocation proceeding in which the patient is a complaining witness and disclosure is relevant to a claim or defense of the physician;

(2) if the patient or a person authorized to act on the patient's behalf submits a written consent to the release of confidential information as provided by Section 159.005;

(3) in a proceeding to substantiate and collect on a claim for medical services provided to the patient;

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SECTION 1. Section 159.002, Occupations Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) Notwithstanding any other provision of this chapter other than Sections 159.003(a)(10) and (c), a communication or record that is otherwise confidential and privileged under this section may be disclosed or released by a physician without the patient's authorization or consent if the disclosure or release is related to a judicial proceeding in which the patient is a party and the disclosure or release is requested under a subpoena issued under:

(1) the Texas Rules of Civil Procedure;

(2) the Code of Criminal Procedure; or

(3) Chapter 121, Civil Practice and Remedies Code.

(g) Subsection (f) does not prevent a physician from claiming, or otherwise limit the authority of a physician to claim, the privilege of confidentiality on behalf of a patient.

SECTION 2. Section 159.003(a), Occupations Code, is amended to read as follows:

(a) An exception to the privilege of confidentiality in a court or administrative proceeding exists:

(1) in a proceeding brought by a patient against a physician, including:

(A) a malpractice proceeding; or

(B) a criminal proceeding or license revocation proceeding in which the patient is a complaining witness and disclosure is relevant to a claim or defense of the physician;

(2) if the patient or a person authorized to act on the patient's behalf submits a written consent to the release of confidential information as provided by Section 159.005;

(3) in a proceeding to substantiate and collect on a claim for medical services provided to the patient;

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- (4) in a civil action or administrative proceeding, if relevant, brought by the patient or a person on the patient's behalf, if the patient or person is attempting to recover monetary damages for a physical or mental condition including the patient's death;
- (5) in a disciplinary investigation or proceeding conducted under this subtitle, if the board protects the identity of any patient whose billing or medical records are examined other than a patient:
 - (A) for whom an exception exists under Subdivision (1); or
 - (B) who has submitted written consent to the release of the billing or medical records as provided by Section 159.005;
- (6) in a criminal investigation of a physician in which the board is participating, or assisting in the investigation or proceeding by providing certain billing or medical records obtained from the physician, if the board protects the identity of a patient whose billing or medical records are provided in the investigation or proceeding other than a patient:
 - (A) for whom an exception exists under Subdivision (1); or
 - (B) who has submitted written consent to the release of the billing or medical records as provided by Section 159.005;
- (7) in an involuntary civil commitment proceeding, proceeding for court-ordered treatment, or probable cause hearing under Chapter 462, 574, or 593, Health and Safety Code;
- (8) if the patient's physical or mental condition is relevant to the execution of a will;
- (9) if the information is relevant to a proceeding brought under Section 159.009;
- (10) in a criminal prosecution in which the patient is a victim, witness, or defendant;
- (11) to satisfy a request for billing or medical records of a

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- (4) in a civil action or administrative proceeding, if relevant, brought by the patient or a person on the patient's behalf, if the patient or person is attempting to recover monetary damages for a physical or mental condition including the patient's death;
- (5) in a disciplinary investigation or proceeding conducted under this subtitle, if the board protects the identity of any patient whose billing or medical records are examined other than a patient:
 - (A) for whom an exception exists under Subdivision (1); or
 - (B) who has submitted written consent to the release of the billing or medical records as provided by Section 159.005;
- (6) in a criminal investigation of a physician in which the board is participating, or assisting in the investigation or proceeding by providing certain billing or medical records obtained from the physician, if the board protects the identity of a patient whose billing or medical records are provided in the investigation or proceeding other than a patient:
 - (A) for whom an exception exists under Subdivision (1); or
 - (B) who has submitted written consent to the release of the billing or medical records as provided by Section 159.005;
- (7) in an involuntary civil commitment proceeding, proceeding for court-ordered treatment, or probable cause hearing under Chapter 462, 574, or 593, Health and Safety Code;
- (8) if the patient's physical or mental condition is relevant to the execution of a will;
- (9) if the information is relevant to a proceeding brought under Section 159.009;
- (10) in a criminal prosecution in which the patient is a victim, witness, or defendant;
- (11) to satisfy a request for billing or medical records of a

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deceased or incompetent person under Section 74.051(e), Civil Practice and Remedies Code; ~~or~~
(12) to comply with a court order, except as provided by Subdivision (13); or
(13) in a judicial proceeding in which the patient is a party and the disclosure is requested under a subpoena issued under:
(A) the Texas Rules of Civil Procedure;
(B) the Code of Criminal Procedure; or
(C) Chapter 121, Civil Practice and Remedies Code ~~or a party to an action under a court order or court subpoena~~.

SECTION 2. This Act takes effect September 1, 2015.

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deceased or incompetent person under Section 74.051(e), Civil Practice and Remedies Code; ~~or~~
(12) to a court or a party to an action under a court order ~~or court subpoena~~.

SECTION 3. Same as House version.

CONFERENCE