

By: Zedler

H.B. No. 1399

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the release of confidential physician-patient
3 communications to the Texas Medical Board.

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

5 SECTION 1. Section 159.003, Occupations Code, is amended by
6 amending Subsection (a) and adding Subsection (d) to read as
7 follows:

8 (a) Subject to Subsection (d), an ~~An~~ exception to the
9 privilege of confidentiality in a court or administrative
10 proceeding exists:

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

13 (A) a malpractice proceeding; or

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

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

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

22 (4) in a civil action or administrative proceeding, if
23 relevant, brought by the patient or a person on the patient's
24 behalf, if the patient or person is attempting to recover monetary

1 damages for a physical or mental condition including the patient's
2 death;

3 (5) in a disciplinary [~~investigation or~~] proceeding
4 conducted under this subtitle, if the board protects the identity
5 of any patient whose billing or medical records are examined other
6 than a patient:

7 (A) for whom an exception exists under
8 Subdivision (1); or

9 (B) who has submitted written consent to the
10 release of the billing or medical records as provided by Section
11 [159.005](#);

12 (6) in a criminal investigation of a physician in
13 which the board is participating, or assisting in the investigation
14 or proceeding by providing certain billing or medical records
15 obtained from the physician, if the board protects the identity of a
16 patient whose billing or medical records are provided in the
17 investigation or proceeding other than a patient:

18 (A) for whom an exception exists under
19 Subdivision (1); or

20 (B) who has submitted written consent to the
21 release of the billing or medical records as provided by Section
22 [159.005](#);

23 (7) in an involuntary civil commitment proceeding,
24 proceeding for court-ordered treatment, or probable cause hearing
25 under Chapter [462](#), [574](#), or [593](#), Health and Safety Code;

26 (8) if the patient's physical or mental condition is
27 relevant to the execution of a will;

1 (9) if the information is relevant to a proceeding
2 brought under Section 159.009;

3 (10) in a criminal prosecution in which the patient is
4 a victim, witness, or defendant;

5 (11) to satisfy a request for billing or medical
6 records of a deceased or incompetent person under Section
7 74.051(e), Civil Practice and Remedies Code; or

8 (12) to a court or a party to an action under a court
9 order.

10 (d) A communication or record that is confidential and
11 privileged under Section 159.002 may not be disclosed or released
12 to the board for use in an investigation conducted under this
13 subtitle unless:

14 (1) the patient or a person authorized to act on the
15 patient's behalf submits a written consent to the release of the
16 information as provided by Section 159.005; or

17 (2) a court orders release of the information to the
18 board for the purpose of conducting the investigation.

19 SECTION 2. The change in law made by this Act to Section
20 159.003, Occupations Code, applies only to the disclosure or
21 release of information to the Texas Medical Board on or after the
22 effective date of this Act. The disclosure or release of
23 information to the Texas Medical Board before that date is governed
24 by the law in effect on the date of the disclosure or release, and
25 the former law is continued in effect for that purpose.

26 SECTION 3. This Act takes effect September 1, 2017.