86R3645 JG-D

By:  Thompson of Harris, et al. H.B. No. 461

A BILL TO BE ENTITLED

AN ACT

relating to an exemption from civil liability for certain professionals for the disclosure of certain mental health information.

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

SECTION 1.  Section 611.004, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a)  A professional may disclose confidential information only:

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

(2)  to medical, mental health, or law enforcement personnel if the professional in good faith determines that there is a probability of imminent physical injury by the patient to the patient or others or there is a probability of immediate mental or emotional injury to the patient;

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

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

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

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

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

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

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

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

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

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

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

(a-1)  A person described by Section 611.001(2)(A) or (B) who in good faith discloses confidential information in accordance with Subsection (a)(2) of this section is immune from civil liability in an action brought against the person for disclosing the confidential information.

SECTION 2.  The changes in law made by this Act apply only to a disclosure of confidential information made on or after the effective date of this Act. A disclosure made before the effective date of this Act is governed by the law in effect on the date the disclosure was made, and that law is continued in effect for that purpose.

SECTION 3.  This Act takes effect September 1, 2019.