

AN ACT

relating to the medical authorization required to release protected health information in a health care liability claim.

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

SECTION 1. Section 74.052(c), Civil Practice and Remedies Code, is amended to read as follows:

(c) The medical authorization required by this section shall be in the following form and shall be construed in accordance with the "Standards for Privacy of Individually Identifiable Health Information" (45 C.F.R. Parts 160 and 164).

AUTHORIZATION FORM FOR RELEASE OF PROTECTED HEALTH INFORMATION

Patient Name:\_\_\_\_\_ Patient Date [~~Place~~] of Birth:\_\_\_\_\_

Patient Address:\_\_\_\_\_

\_\_\_\_\_ Street\_\_\_\_\_ City, State, ZIP

Patient Telephone:\_\_\_\_\_ Patient E-mail:\_\_\_\_\_

NOTICE TO PHYSICIAN OR HEALTH CARE PROVIDER: THIS AUTHORIZATION FORM HAS BEEN AUTHORIZED BY THE TEXAS LEGISLATURE PURSUANT TO SECTION 74.052, CIVIL PRACTICE AND REMEDIES CODE. YOU ARE REQUIRED TO PROVIDE THE MEDICAL AND BILLING RECORDS AS REQUESTED IN THIS AUTHORIZATION.

A. I, \_\_\_\_\_ (name of patient or authorized representative), hereby authorize \_\_\_\_\_ (name of physician or other health care provider to whom the notice of health care claim is directed) to obtain and disclose (within the parameters set out

1 below) the protected health information and associated billing  
2 records described below for the following specific purposes (check  
3 all that apply):

4            To facilitate the investigation and evaluation of  
5 the health care claim described in the accompanying Notice of  
6 Health Care Claim.

7            Defense of any litigation arising out of the claim  
8 made the basis of the accompanying Notice of Health Care Claim.

9            Other - Specify:\_\_\_\_\_

10           B. The health information to be obtained, used, or disclosed  
11 extends to and includes the verbal as well as written and electronic  
12 and is specifically described as follows:

13           1. The health information and billing records in the  
14 custody of the physicians or health care providers who have  
15 examined, evaluated, or treated \_\_\_\_\_ (patient) in connection  
16 with the injuries alleged to have been sustained in connection with  
17 the claim asserted in the accompanying Notice of Health Care Claim.

18           Names and current addresses of treating physicians or  
19 health care providers:

- 20           1. \_\_\_\_\_
- 21           2. \_\_\_\_\_
- 22           3. \_\_\_\_\_
- 23           4. \_\_\_\_\_
- 24           5. \_\_\_\_\_
- 25           6. \_\_\_\_\_
- 26           7. \_\_\_\_\_
- 27           8. \_\_\_\_\_

1 This authorization extends to an additional physician or  
2 health care provider that may in the future evaluate, examine, or  
3 treat \_\_\_\_\_ (patient) for injuries alleged in connection with  
4 the claim made the basis of the attached Notice of Health Care Claim  
5 only if the claimant gives notice to the recipient of the attached  
6 Notice of Health Care Claim of that additional physician or health  
7 care provider;

8 2. The health information and billing records in the  
9 custody of the following physicians or health care providers who  
10 have examined, evaluated, or treated \_\_\_\_\_ (patient) during a  
11 period commencing five years prior to the incident made the basis of  
12 the accompanying Notice of Health Care Claim.

13 Names and current addresses of treating physicians or  
14 health care providers, if applicable:

- 15 1. \_\_\_\_\_
- 16 2. \_\_\_\_\_
- 17 3. \_\_\_\_\_
- 18 4. \_\_\_\_\_
- 19 5. \_\_\_\_\_
- 20 6. \_\_\_\_\_
- 21 7. \_\_\_\_\_
- 22 8. \_\_\_\_\_

23 C. Exclusions

24 1. Providers excluded from authorization.

25 The following constitutes a list of physicians or health care  
26 providers possessing health care information concerning \_\_\_\_\_  
27 (patient) to whom this authorization does not apply because I

1 contend that such health care information is not relevant to the  
2 damages being claimed or to the physical, mental, or emotional  
3 condition of \_\_\_\_\_ (patient) arising out of the claim made the  
4 basis of the accompanying Notice of Health Care Claim. List the  
5 names of each physician or health care provider to whom this  
6 authorization does not extend and the inclusive dates of  
7 examination, evaluation, or treatment to be withheld from  
8 disclosure, or state "none":

- 9           1. \_\_\_\_\_
- 10          2. \_\_\_\_\_
- 11          3. \_\_\_\_\_
- 12          4. \_\_\_\_\_
- 13          5. \_\_\_\_\_
- 14          6. \_\_\_\_\_
- 15          7. \_\_\_\_\_
- 16          8. \_\_\_\_\_

17           2. By initialing below, the patient or patient's  
18 personal or legal representative excludes the following  
19 information from this authorization:

- 20           \_\_\_\_\_ HIV/AIDS test results and/or treatment
- 21           \_\_\_\_\_ Drug/alcohol/substance abuse treatment
- 22           \_\_\_\_\_ Mental health records (mental health records  
23 do not include psychotherapy notes)
- 24           \_\_\_\_\_ Genetic information (including genetic test  
25 results)

26           D. The persons or class of persons to whom the patient's  
27 health information and billing records will be disclosed or who

1 will make use of said information are:

2           1. Any and all physicians or health care providers  
3 providing care or treatment to \_\_\_\_\_ (patient);

4           2. Any liability insurance entity providing liability  
5 insurance coverage or defense to any physician or health care  
6 provider to whom Notice of Health Care Claim has been given with  
7 regard to the care and treatment of \_\_\_\_\_ (patient);

8           3. Any consulting or testifying experts employed by or  
9 on behalf of \_\_\_\_\_ (name of physician or health care provider  
10 to whom Notice of Health Care Claim has been given) with regard to  
11 the matter set out in the Notice of Health Care Claim accompanying  
12 this authorization;

13           4. Any attorneys (including secretarial, clerical,  
14 experts, or paralegal staff) employed by or on behalf of \_\_\_\_\_  
15 (name of physician or health care provider to whom Notice of Health  
16 Care Claim has been given) with regard to the matter set out in the  
17 Notice of Health Care Claim accompanying this authorization;

18           5. Any trier of the law or facts relating to any suit  
19 filed seeking damages arising out of the medical care or treatment  
20 of \_\_\_\_\_ (patient).

21           E. This authorization shall expire upon resolution of the  
22 claim asserted or at the conclusion of any litigation instituted in  
23 connection with the subject matter of the Notice of Health Care  
24 Claim accompanying this authorization, whichever occurs sooner.

25           F. I understand that, without exception, I have the right to  
26 revoke this authorization at any time by giving notice in writing to  
27 the person or persons named in Section B above of my intent to

1 revoke this authorization. I understand that prior actions taken  
2 in reliance on this authorization by a person that had permission to  
3 access my protected health information will not be affected. I  
4 further understand the consequence of any such revocation as set  
5 out in Section 74.052, Civil Practice and Remedies Code.

6 G. I understand that the signing of this authorization is  
7 not a condition for continued treatment, payment, enrollment, or  
8 eligibility for health plan benefits.

9 H. I understand that information used or disclosed pursuant  
10 to this authorization may be subject to redisclosure by the  
11 recipient and may no longer be protected by federal HIPAA privacy  
12 regulations.

13 Name of Patient

14 \_\_\_\_\_

15 Signature of Patient/Personal or Legal Representative

16 \_\_\_\_\_

17 Description of Personal or Legal Representative's Authority

18 \_\_\_\_\_

19 Date

20 \_\_\_\_\_

21 SECTION 2. This Act takes effect September 1, 2019.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 1565 passed the Senate on April 24, 2019, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 1565 passed the House on May 10, 2019, by the following vote: Yeas 141, Nays 0, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor