

By: Fallon
(Smith)

S.B. No. 1565

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the medical authorization required to release protected
3 health information in a health care liability claim.

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

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

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

11 AUTHORIZATION FORM FOR RELEASE OF PROTECTED HEALTH INFORMATION

12 Patient Name:_____ Patient Date [~~Place~~] of Birth:_____

13 Patient Address:_____

14 _____ Street _____ City, State, ZIP

15 Patient Telephone:_____ Patient E-mail:_____

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

21 A. I, _____ (name of patient or authorized
22 representative), hereby authorize _____ (name of physician or
23 other health care provider to whom the notice of health care claim
24 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.