

By: Klick

H.B. No. 2052

A BILL TO BE ENTITLED

AN ACT

relating to public access to certain hospital investigation information and materials.

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

SECTION 1. Section 241.051, Health and Safety Code, is amended by amending Subsections (d) and (e) and adding Subsections (f), (g), and (h) to read as follows:

(d) Except as provided by Subsection (e), all ~~[All]~~ information and materials in the possession of or obtained or compiled by the commission ~~[department]~~ in connection with a complaint and investigation concerning a hospital are confidential and not subject to disclosure under Chapter 552 ~~[Section 552.001 et seq.]~~, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the commission ~~[department]~~ or its employees or agents involved in the enforcement action except that this information may be disclosed to:

- (1) persons involved with the commission ~~[department]~~ in the enforcement action against the hospital;
- (2) the hospital that is the subject of the enforcement action, or the hospital's authorized representative;
- (3) appropriate state or federal agencies that are authorized to inspect, survey, or investigate hospital services;
- (4) law enforcement agencies; and

1 (5) persons engaged in bona fide research, if all
2 individual-identifying and hospital-identifying information has
3 been deleted.

4 (e) The following information is subject to disclosure in
5 accordance with Chapter 552 [~~Section 552.001 et seq.~~], Government
6 Code, only to the extent that all personally identifiable
7 information of a patient or health care provider is omitted from the
8 information:

9 (1) a notice of the hospital's alleged violation
10 [~~against the hospital~~], which must [~~notice shall~~] include the
11 provisions of law [~~which~~] the hospital is alleged to have violated,
12 and a general statement of the nature of the alleged violation;

13 (2) the number of investigations the commission has
14 conducted of the hospital;

15 (3) the pleadings in any [~~the~~] administrative
16 proceeding to impose a penalty against the hospital for the alleged
17 violation;

18 (4) the outcome of each investigation the commission
19 conducted of the hospital, including:

20 (A) the issuance of a reprimand;

21 (B) the denial or revocation of a license;

22 (C) the adoption of a corrective action plan; or

23 (D) the imposition of an administrative penalty

24 and the penalty amount; and

25 (5) [~~(3)~~] a final decision, investigative report, or
26 order issued by the commission to address the alleged violation

27 [~~department~~].

1 (f) Not later than the 90th day after the date the
2 commission issues a final decision, investigative report, or order
3 to address a hospital's alleged violation, the commission shall
4 post on the commission's Internet website:

5 (1) the notice of alleged violation described by
6 Subsection (e)(1);

7 (2) the name of the hospital;

8 (3) the geographic location of the hospital;

9 (4) the date the commission issued the final decision,
10 investigative report, or order; and

11 (5) the outcome of the commission's investigation of
12 the hospital that includes the information described by Subsection
13 (e)(4).

14 (g) The commission may not remove information posted on the
15 commission's Internet website under Subsection (f) before the
16 second anniversary of the date the information is posted on the
17 Internet website.

18 (h) Nothing in this section precludes a hospital from
19 releasing medical records in the hospital's possession on the
20 request of the patient who is the subject of the record or to the
21 patient, the parent or guardian of the patient if the patient is a
22 minor or incapacitated, or the personal representative of the
23 patient if the patient is deceased.

24 SECTION 2. Section 577.013, Health and Safety Code, is
25 amended by amending Subsections (d) and (e) and adding Subsections
26 (f), (g), and (h) to read as follows:

27 (d) Except as provided by Subsection (e), all ~~[All]~~

1 information and materials in the possession of or obtained or
2 compiled by the commission [~~department~~] in connection with a
3 complaint and investigation concerning a mental hospital licensed
4 under this chapter are confidential and not subject to disclosure,
5 discovery, subpoena, or other means of legal compulsion for their
6 release to anyone other than the commission [~~department~~] or its
7 employees or agents involved in the enforcement action except that
8 this information may be disclosed to:

9 (1) persons involved with the commission [~~department~~]
10 in the enforcement action against the licensed mental hospital;

11 (2) the licensed mental hospital that is the subject
12 of the enforcement action, or the licensed mental hospital's
13 authorized representative;

14 (3) appropriate state or federal agencies that are
15 authorized to inspect, survey, or investigate licensed mental
16 hospital services;

17 (4) law enforcement agencies; and

18 (5) persons engaged in bona fide research, if all
19 individual-identifying information and information identifying the
20 licensed mental hospital has been deleted.

21 (e) The following information is subject to disclosure in
22 accordance with Chapter 552 [~~Section 552.001 et seq.~~], Government
23 Code, only to the extent that all personally identifiable
24 information of a patient or health care provider is omitted from the
25 information:

26 (1) a notice of the licensed mental hospital's alleged
27 violation [~~against the licensed mental hospital~~], which must

1 ~~[notice shall]~~ include the provisions of law ~~[which]~~ the licensed
2 mental hospital is alleged to have violated, and the nature of the
3 alleged violation;

4 (2) the number of investigations the commission has
5 conducted of the mental hospital;

6 (3) the pleadings in any ~~[the]~~ administrative
7 proceeding to impose a penalty against the mental hospital for the
8 alleged violation;

9 (4) the outcome of each investigation the commission
10 conducted of the mental hospital, including:

11 (A) the issuance of a reprimand;

12 (B) the denial or revocation of a license;

13 (C) the adoption of a corrective action plan; or

14 (D) the imposition of an administrative penalty
15 and the penalty amount; and

16 (5) ~~[(3)]~~ a final decision, investigative report, or
17 order issued by the commission to address the alleged violation
18 [department].

19 (f) Not later than the 90th day after the date the
20 commission issues a final decision, investigative report, or order
21 to address a mental hospital's alleged violation, the commission
22 shall post on the commission's Internet website:

23 (1) the notice of alleged violation described by
24 Subsection (e)(1);

25 (2) the name of the mental hospital;

26 (3) the geographic location of the mental hospital;

27 (4) the date the commission issued the final decision,

1 investigative report, or order; and

2 (5) the outcome of the commission's investigation of
3 the mental hospital that includes the information described by
4 Subsection (e)(4).

5 (g) The commission may not remove information posted on the
6 commission's Internet website under Subsection (f) before the
7 second anniversary of the date the information is posted on the
8 Internet website.

9 (h) Nothing in this section precludes a mental hospital from
10 releasing medical records in the mental hospital's possession on
11 request of the patient who is the subject of the record or to the
12 patient, the parent or guardian of the patient if the patient is a
13 minor or incapacitated, or the personal representative of the
14 patient if the patient is deceased.

15 SECTION 3. The changes in law made by this Act apply only to
16 an investigation of an alleged violation by a hospital or mental
17 hospital that is finalized on or after the effective date of this
18 Act.

19 SECTION 4. This Act takes effect September 1, 2021.