

1-1 By: Klick (Senate Sponsor - Kolthorst) H.B. No. 2052  
 1-2 (In the Senate - Received from the House April 26, 2021;  
 1-3 May 10, 2021, read first time and referred to Committee on Health &  
 1-4 Human Services; May 20, 2021, reported favorably by the following  
 1-5 vote: Yeas 8, Nays 0; May 20, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to public access to certain hospital investigation  
 1-20 information and materials.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 241.051, Health and Safety Code, is  
 1-23 amended by amending Subsections (d) and (e) and adding Subsections  
 1-24 (f), (g), and (h) to read as follows:

1-25 (d) Except as provided by Subsection (e), all [All]  
 1-26 information and materials in the possession of or obtained or  
 1-27 compiled by the commission [department] in connection with a  
 1-28 complaint and investigation concerning a hospital are confidential  
 1-29 and not subject to disclosure under Chapter 552 [Section 552.001 et  
 1-30 seq.], Government Code, and not subject to disclosure, discovery,  
 1-31 subpoena, or other means of legal compulsion for their release to  
 1-32 anyone other than the commission [department] or its employees or  
 1-33 agents involved in the enforcement action except that this  
 1-34 information may be disclosed to:

1-35 (1) persons involved with the commission [department]  
 1-36 in the enforcement action against the hospital;

1-37 (2) the hospital that is the subject of the  
 1-38 enforcement action, or the hospital's authorized representative;

1-39 (3) appropriate state or federal agencies that are  
 1-40 authorized to inspect, survey, or investigate hospital services;

1-41 (4) law enforcement agencies; and

1-42 (5) persons engaged in bona fide research, if all  
 1-43 individual-identifying and hospital-identifying information has  
 1-44 been deleted.

1-45 (e) The following information is subject to disclosure in  
 1-46 accordance with Chapter 552 [Section 552.001 et seq.], Government  
 1-47 Code, only to the extent that all personally identifiable  
 1-48 information of a patient or health care provider is omitted from the  
 1-49 information:

1-50 (1) a notice of the hospital's alleged violation  
 1-51 [against the hospital], which must [notice shall] include the  
 1-52 provisions of law [which] the hospital is alleged to have violated,  
 1-53 and a general statement of the nature of the alleged violation;

1-54 (2) the number of investigations the commission has  
 1-55 conducted of the hospital;

1-56 (3) the pleadings in any [the] administrative  
 1-57 proceeding to impose a penalty against the hospital for the alleged  
 1-58 violation;

1-59 (4) the outcome of each investigation the commission  
 1-60 conducted of the hospital, including:

1-61 (A) the issuance of a reprimand;

2-1 (B) the denial or revocation of a license;  
 2-2 (C) the adoption of a corrective action plan; or  
 2-3 (D) the imposition of an administrative penalty  
 2-4 and the penalty amount; and

2-5 (5) ~~[(3)]~~ a final decision, investigative report, or  
 2-6 order issued by the commission to address the alleged violation  
 2-7 [department].

2-8 (f) Not later than the 90th day after the date the  
 2-9 commission issues a final decision, investigative report, or order  
 2-10 to address a hospital's alleged violation, the commission shall  
 2-11 post on the commission's Internet website:

2-12 (1) the notice of alleged violation described by  
 2-13 Subsection (e)(1);

2-14 (2) the name of the hospital;

2-15 (3) the geographic location of the hospital;

2-16 (4) the date the commission issued the final decision,  
 2-17 investigative report, or order; and

2-18 (5) the outcome of the commission's investigation of  
 2-19 the hospital that includes the information described by Subsection  
 2-20 (e)(4).

2-21 (g) The commission may not remove information posted on the  
 2-22 commission's Internet website under Subsection (f) before the  
 2-23 second anniversary of the date the information is posted on the  
 2-24 Internet website.

2-25 (h) Nothing in this section precludes a hospital from  
 2-26 releasing medical records in the hospital's possession on the  
 2-27 request of the patient who is the subject of the record or to the  
 2-28 patient, the parent or guardian of the patient if the patient is a  
 2-29 minor or incapacitated, or the personal representative of the  
 2-30 patient if the patient is deceased.

2-31 SECTION 2. Section 577.013, Health and Safety Code, is  
 2-32 amended by amending Subsections (d) and (e) and adding Subsections  
 2-33 (f), (g), and (h) to read as follows:

2-34 (d) Except as provided by Subsection (e), all [All]  
 2-35 information and materials in the possession of or obtained or  
 2-36 compiled by the commission [department] in connection with a  
 2-37 complaint and investigation concerning a mental hospital licensed  
 2-38 under this chapter are confidential and not subject to disclosure,  
 2-39 discovery, subpoena, or other means of legal compulsion for their  
 2-40 release to anyone other than the commission [department] or its  
 2-41 employees or agents involved in the enforcement action except that  
 2-42 this information may be disclosed to:

2-43 (1) persons involved with the commission [department]  
 2-44 in the enforcement action against the licensed mental hospital;

2-45 (2) the licensed mental hospital that is the subject  
 2-46 of the enforcement action, or the licensed mental hospital's  
 2-47 authorized representative;

2-48 (3) appropriate state or federal agencies that are  
 2-49 authorized to inspect, survey, or investigate licensed mental  
 2-50 hospital services;

2-51 (4) law enforcement agencies; and

2-52 (5) persons engaged in bona fide research, if all  
 2-53 individual-identifying information and information identifying the  
 2-54 licensed mental hospital has been deleted.

2-55 (e) The following information is subject to disclosure in  
 2-56 accordance with Chapter 552 [Section 552.001 et seq.], Government  
 2-57 Code, only to the extent that all personally identifiable  
 2-58 information of a patient or health care provider is omitted from the  
 2-59 information:

2-60 (1) a notice of the licensed mental hospital's alleged  
 2-61 violation [against the licensed mental hospital], which must  
 2-62 [notice shall] include the provisions of law [which] the licensed  
 2-63 mental hospital is alleged to have violated, and the nature of the  
 2-64 alleged violation;

2-65 (2) the number of investigations the commission has  
 2-66 conducted of the mental hospital;

2-67 (3) the pleadings in any [the] administrative  
 2-68 proceeding to impose a penalty against the mental hospital for the  
 2-69 alleged violation;

3-1 (4) the outcome of each investigation the commission  
3-2 conducted of the mental hospital, including:

- 3-3 (A) the issuance of a reprimand;
- 3-4 (B) the denial or revocation of a license;
- 3-5 (C) the adoption of a corrective action plan; or
- 3-6 (D) the imposition of an administrative penalty  
3-7 and the penalty amount; and

3-8 (5) ~~[(3)]~~ a final decision, investigative report, or  
3-9 order issued by the commission to address the alleged violation  
3-10 [department].

3-11 (f) Not later than the 90th day after the date the  
3-12 commission issues a final decision, investigative report, or order  
3-13 to address a mental hospital's alleged violation, the commission  
3-14 shall post on the commission's Internet website:

- 3-15 (1) the notice of alleged violation described by  
3-16 Subsection (e)(1);
- 3-17 (2) the name of the mental hospital;
- 3-18 (3) the geographic location of the mental hospital;
- 3-19 (4) the date the commission issued the final decision,  
3-20 investigative report, or order; and

3-21 (5) the outcome of the commission's investigation of  
3-22 the mental hospital that includes the information described by  
3-23 Subsection (e)(4).

3-24 (g) The commission may not remove information posted on the  
3-25 commission's Internet website under Subsection (f) before the  
3-26 second anniversary of the date the information is posted on the  
3-27 Internet website.

3-28 (h) Nothing in this section precludes a mental hospital from  
3-29 releasing medical records in the mental hospital's possession on  
3-30 request of the patient who is the subject of the record or to the  
3-31 patient, the parent or guardian of the patient if the patient is a  
3-32 minor or incapacitated, or the personal representative of the  
3-33 patient if the patient is deceased.

3-34 SECTION 3. The changes in law made by this Act apply only to  
3-35 an investigation of an alleged violation by a hospital or mental  
3-36 hospital that is finalized on or after the effective date of this  
3-37 Act.

3-38 SECTION 4. This Act takes effect September 1, 2021.

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