

**House Bill 549**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

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 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

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SECTION 1. Section 611.002, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

- (b) Confidential communications or records may not be disclosed except as provided by Section 611.004, 611.0041, or 611.0045.
- (b-1) No exception to the privilege of confidentiality under Section 611.004 may be construed to create an independent duty or requirement to disclose the confidential information to which the exception applies.

SECTION 2. 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 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

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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) No cause of action exists against a person described by Section 611.001(2)(A) or (B) for the disclosure of confidential information under Subsection (a)(2). A cause of action brought against the person for the disclosure of the confidential information must be dismissed with prejudice.

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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) No ~~civil, criminal, or administrative~~ cause of action exists against a person described by Section 611.001(2)(A) or (B) for the disclosure of confidential information ~~in~~ accordance with Subsection (a)(2). A cause of action brought against the person for the disclosure of the confidential information must be dismissed with prejudice.

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SECTION 3. Section 159.002, Occupations Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) No exception to the privilege of confidentiality under Section 159.003 or 159.004 may be construed to create an independent duty or requirement to disclose the confidential information to which the exception applies.

SECTION 4. Section 159.004, Occupations Code, is amended to read as follows:

Sec. 159.004. EXCEPTIONS TO CONFIDENTIALITY IN OTHER SITUATIONS. (a) An exception to the privilege of confidentiality in a situation other than a court or administrative proceeding, allowing disclosure of confidential information by a physician, exists only with respect to the following:

- (1) a governmental agency, if the disclosure is required or authorized by law;
- (2) medical, mental health, or law enforcement personnel, if the physician determines that there is a probability of:
  - (A) imminent physical injury to the patient, the physician, or another person; or
  - (B) immediate mental or emotional injury to the patient;
- (3) qualified personnel for research or for a management audit, financial audit, or program evaluation, but the personnel may not directly or indirectly identify a patient in any report of the research, audit, or evaluation or otherwise disclose identity in any manner;
- (4) those parts of the medical records reflecting specific services provided if necessary in the collection of fees for medical services provided by a physician, professional association, or other entity qualified to provide or arrange for

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medical services;

(5) a person who has consent, as provided by Section 159.005;

(6) a person, corporation, or governmental agency involved in the payment or collection of fees for medical services provided by a physician;

(7) another physician or other personnel acting under the direction of the physician who participate in the diagnosis, evaluation, or treatment of the patient;

(8) an official legislative inquiry regarding state hospitals or state schools, if:

(A) information or a record that identifies a patient or client is not released for any purpose unless proper consent to the release is given by the patient; and

(B) only records created by the state hospital or school or its employees are included; or

(9) health care personnel of a penal or other custodial institution in which the patient is detained if the disclosure is for the sole purpose of providing health care to the patient.

(b) No civil, criminal, or administrative cause of action exists against a physician for the disclosure of confidential information in accordance with Subsection (a)(2). A cause of action brought against a physician for the disclosure of the confidential information must be dismissed with prejudice.

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 5. Same as House version.

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SECTION 3. This Act takes effect September 1, 2021.

SECTION 6. Same as House version.