

BILL ANALYSIS

H.B. 49
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Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

State legislation enacted in response to the federal Health Insurance Portability and Accountability Act of 1996 unintentionally resulted in a lack of public access to certain hospital inspection and investigation information and materials, which has caused many Texans to become dependent on other sources, such as online reviews, to make decisions about hospital care. H.B. 49 seeks to revise provisions that limit the public's ability to access this information, while protecting the confidentiality of a patient's or professional's individually identifiable information, by making certain information relating to an alleged violation or investigation of a hospital or mental health hospital subject to disclosure and requiring the Health and Human Services Commission to make information regarding any final decisions, investigative reports, or orders to address the alleged violation available online.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 49 amends the Health and Safety Code to clarify that provisions relating to the confidentiality of information and materials obtained or compiled by the Health and Human Services Commission (HHSC) in connection with a complaint and investigation concerning a hospital or licensed mental hospital also apply to information and materials otherwise in the possession of HHSC. The bill provides that all information regarding such complaints and investigations is subject to disclosure under state public information law only to the extent that all personally identifiable information of a patient or health care provider is omitted from that information. In addition, the bill subjects the following information regarding such complaints and investigations to disclosure, with all personally identifiable information omitted, under state public information law:

- the number of investigations HHSC has conducted of a hospital or licensed mental hospital;
- the outcome of each investigation the commission conducted of the hospital or licensed mental hospital, including the following:
 - the issuance of a reprimand;
 - the denial or revocation of a license;
 - the adoption of a corrective action plan; or
 - the imposition of an administrative penalty and the penalty amount; and
- an investigative report issued by HHSC to address an alleged violation.

The bill specifies that the administrative proceedings for which the pleadings are subject to disclosure are proceedings to impose a penalty against a hospital or licensed mental hospital for an alleged violation.

H.B. 49 requires HHSC to post the following information on its website not later than the 90th day after the date it issues a final decision, investigative report, or order to address a hospital's or licensed mental hospital's alleged violation:

- the notice of alleged violation;
- the name and geographic location of the hospital;
- the date HHSC issued the decision, report, or order; and
- the outcome of the investigation, including any applicable information described by the bill.

HHSC may not remove that information from the website before the second anniversary of the date the information is posted.

H.B. 49 establishes that nothing in its provisions precludes a hospital or licensed mental hospital from releasing medical records in the hospital's possession as follows:

- on request of the patient who is the subject of the record; or
- to the patient, the patient's parent or guardian if the patient is a minor or incapacitated, or the patient's personal representative if the patient is deceased.

H.B. 49 applies to an investigation of an alleged violation by a hospital or licensed mental hospital that is finalized on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.