By:  Klick, Lalani H.B. No. 49

     (Senate Sponsor - Kolkhorst)

(In the Senate - Received from the House April 5, 2023; April 12, 2023, read first time and referred to Committee on Health & Human Services; April 27, 2023, reported favorably by the following vote: Yeas 9, Nays 0; April 27, 2023, sent to printer.)

COMMITTEE VOTE

                 Yea Nay Absent  PNV

Kolkhorst         X

Perry             X

Blanco            X

Hall              X

Hancock           X

Hughes            X

LaMantia          X

Miles             X

Sparks            X

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

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

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

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

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

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

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

(A)  the issuance of a reprimand;

(B)  the denial or revocation of a license;

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

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

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

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

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

(2)  the name of the hospital;

(3)  the geographic location of the hospital;

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

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

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

(h)  Nothing in this section precludes a hospital from releasing medical records in the hospital's possession:

(1)  on the request of the patient who is the subject of the record; or

(2)  to the patient, the parent or guardian of a patient who is a minor or incapacitated, or the personal representative of a patient who is deceased.

SECTION 2.  Section 577.013, Health and Safety Code, is amended by amending Subsections (d) and (e) and adding Subsections (f), (g), (h), and (i) 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 mental hospital licensed under this chapter are confidential 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 licensed mental hospital;

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

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

(4)  law enforcement agencies; and

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

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

(1)  a notice of the licensed mental hospital's alleged violation [~~against the licensed mental hospital~~], which must [~~notice shall~~] include the provisions of law [~~which~~] the licensed mental hospital is alleged to have violated, and the nature of the alleged violation;

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

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

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

(A)  the issuance of a reprimand;

(B)  the denial or revocation of a license;

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

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

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

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

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

(2)  the name of the licensed mental hospital;

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

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

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

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

(h)  Nothing in this section precludes a licensed mental hospital from releasing medical records in the licensed mental hospital's possession:

(1)  on request of the patient who is the subject of the record; or

(2)  to the patient, the parent or guardian of a patient who is a minor or incapacitated, or the personal representative of a patient who is deceased.

(i)  In this section, "commission" means the Health and Human Services Commission.

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

SECTION 4.  This Act takes effect September 1, 2023.

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