

1-1 By: Uresti S.B. No. 1733
1-2 (In the Senate - Filed March 13, 2015; March 24, 2015, read
1-3 first time and referred to Committee on State Affairs;
1-4 April 28, 2015, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 28, 2015,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Huffman	X		
1-10	Ellis	X		
1-11	Birdwell	X		
1-12	Creighton	X		
1-13	Estes	X		
1-14	Fraser	X		
1-15	Nelson	X		
1-16	Schwertner	X		
1-17	Zaffirini	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1733 By: Ellis

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to the disclosure in certain judicial proceedings of
1-22 confidential communications between a physician and a patient.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 159.002, Occupations Code, is amended by
1-25 adding Subsections (f) and (g) to read as follows:

1-26 (f) Notwithstanding any other provision of this chapter, a
1-27 communication or record that is otherwise confidential and
1-28 privileged under this section may be disclosed or released by a
1-29 physician without the patient's authorization if the disclosure or
1-30 release is related to a judicial proceeding in which the patient is
1-31 a party and the disclosure is requested under a subpoena issued
1-32 under:

1-33 (1) the Texas Rules of Civil Procedure;

1-34 (2) the Code of Criminal Procedure; or

1-35 (3) Chapter 121, Civil Practice and Remedies Code.

1-36 (g) Subsection (f) does not prevent a physician from
1-37 claiming, or otherwise limit the authority of a physician to claim,
1-38 the privilege of confidentiality on behalf of a patient.

1-39 SECTION 2. Section 159.003(a), Occupations Code, is amended
1-40 to read as follows:

1-41 (a) An exception to the privilege of confidentiality in a
1-42 court or administrative proceeding exists:

1-43 (1) in a proceeding brought by a patient against a
1-44 physician, including:

1-45 (A) a malpractice proceeding; or

1-46 (B) a criminal proceeding or license revocation
1-47 proceeding in which the patient is a complaining witness and
1-48 disclosure is relevant to a claim or defense of the physician;

1-49 (2) if the patient or a person authorized to act on the
1-50 patient's behalf submits a written consent to the release of
1-51 confidential information as provided by Section 159.005;

1-52 (3) in a proceeding to substantiate and collect on a
1-53 claim for medical services provided to the patient;

1-54 (4) in a civil action or administrative proceeding, if
1-55 relevant, brought by the patient or a person on the patient's
1-56 behalf, if the patient or person is attempting to recover monetary
1-57 damages for a physical or mental condition including the patient's
1-58 death;

1-59 (5) in a disciplinary investigation or proceeding
1-60 conducted under this subtitle, if the board protects the identity

2-1 of any patient whose billing or medical records are examined other
2-2 than a patient:
2-3 (A) for whom an exception exists under
2-4 Subdivision (1); or
2-5 (B) who has submitted written consent to the
2-6 release of the billing or medical records as provided by Section
2-7 159.005;
2-8 (6) in a criminal investigation of a physician in
2-9 which the board is participating, or assisting in the investigation
2-10 or proceeding by providing certain billing or medical records
2-11 obtained from the physician, if the board protects the identity of a
2-12 patient whose billing or medical records are provided in the
2-13 investigation or proceeding other than a patient:
2-14 (A) for whom an exception exists under
2-15 Subdivision (1); or
2-16 (B) who has submitted written consent to the
2-17 release of the billing or medical records as provided by Section
2-18 159.005;
2-19 (7) in an involuntary civil commitment proceeding,
2-20 proceeding for court-ordered treatment, or probable cause hearing
2-21 under Chapter 462, 574, or 593, Health and Safety Code;
2-22 (8) if the patient's physical or mental condition is
2-23 relevant to the execution of a will;
2-24 (9) if the information is relevant to a proceeding
2-25 brought under Section 159.009;
2-26 (10) in a criminal prosecution in which the patient is
2-27 a victim, witness, or defendant;
2-28 (11) to satisfy a request for billing or medical
2-29 records of a deceased or incompetent person under Section
2-30 74.051(e), Civil Practice and Remedies Code; or
2-31 (12) to a court or a party to an action under a court
2-32 order [~~or court subpoena~~].
2-33 SECTION 3. This Act takes effect September 1, 2015.

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