

1-1 By: Smithee (Senate Sponsor - Creighton) H.B. No. 2891
1-2 (In the Senate - Received from the House May 1, 2017;
1-3 May 4, 2017, read first time and referred to Committee on Health &
1-4 Human Services; May 18, 2017, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 May 18, 2017, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	<u>Schwertner</u>	X		
1-10	<u>Uresti</u>	X		
1-11	<u>Buckingham</u>	X		
1-12	<u>Burton</u>	X		
1-13	<u>Kolkhorst</u>	X		
1-14	<u>Miles</u>	X		
1-15	<u>Perry</u>	X		
1-16	<u>Taylor of Collin</u>	X		
1-17	<u>Watson</u>	X		

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 2891 By: Perry

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

1-21 relating to the medical authorization required to release protected
1-22 health information in a health care liability claim.

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

1-24 SECTION 1. Section 74.052(c), Civil Practice and Remedies
1-25 Code, is amended to read as follows:

1-26 (c) The medical authorization required by this section
1-27 shall be in the following form and shall be construed in accordance
1-28 with the "Standards for Privacy of Individually Identifiable Health
1-29 Information" (45 C.F.R. Parts 160 and 164).

1-30 AUTHORIZATION FORM FOR RELEASE OF PROTECTED HEALTH INFORMATION

1-31 Patient Name: _____ Patient Place of Birth: _____

1-32 Patient Address: _____

1-33 _____ Street _____ City, State, ZIP

1-34 Patient Telephone: _____ Patient E-mail: _____

1-35 NOTICE TO PHYSICIAN OR HEALTH CARE PROVIDER: THIS
1-36 AUTHORIZATION FORM HAS BEEN AUTHORIZED BY THE TEXAS LEGISLATURE
1-37 PURSUANT TO SECTION 74.052, CIVIL PRACTICE AND REMEDIES CODE. YOU
1-38 ARE REQUIRED TO PROVIDE THE MEDICAL AND BILLING RECORDS AS
1-39 REQUESTED IN THIS AUTHORIZATION.

1-40 A. I, _____ (name of patient or authorized
1-41 representative), hereby authorize _____ (name of physician or
1-42 other health care provider to whom the notice of health care claim
1-43 is directed) to obtain and disclose (within the parameters set out
1-44 below) the protected health information and associated billing
1-45 records described below for the following specific purposes (check
1-46 all that apply):

1-47 [~~1.~~] To facilitate the investigation and evaluation
1-48 of the health care claim described in the accompanying Notice of
1-49 Health Care Claim. [~~1.~~]

1-50 [~~2.~~] Defense of any litigation arising out of the
1-51 claim made the basis of the accompanying Notice of Health Care
1-52 Claim.

1-53 Other - Specify: _____

1-54 B. The health information to be obtained, used, or disclosed
1-55 extends to and includes the verbal as well as [~~the~~] written and
1-56 electronic and is specifically described as follows:

1-57 1. The health information and billing records in the
1-58 custody of the [~~following~~] physicians or health care providers who
1-59 have examined, evaluated, or treated _____ (patient) in
1-60 connection with the injuries alleged to have been sustained in

2-1 connection with the claim asserted in the accompanying Notice of
2-2 Health Care Claim.

2-3 Names and current addresses of treating physicians or
2-4 health care providers:

- 2-5 1. _____
- 2-6 2. _____
- 2-7 3. _____
- 2-8 4. _____
- 2-9 5. _____
- 2-10 6. _____
- 2-11 7. _____
- 2-12 8. _____

2-12 ~~_____ [(Here list the name and~~
2-13 ~~current address of all treating physicians or health care~~
2-14 ~~providers).]~~

2-15 This authorization extends [~~shall extend~~] to an [~~any~~]
2-16 additional physician [~~physicians~~] or health care provider
2-17 [~~providers~~] that may in the future evaluate, examine, or treat
2-18 _____ (patient) for injuries alleged in connection with the
2-19 claim made the basis of the attached Notice of Health Care Claim
2-20 only if the claimant gives notice to the recipient of the attached
2-21 Notice of Health Care Claim of that additional physician or health
2-22 care provider;

2-23 2. The health information and billing records in the
2-24 custody of the following physicians or health care providers who
2-25 have examined, evaluated, or treated _____ (patient) during a
2-26 period commencing five years prior to the incident made the basis of
2-27 the accompanying Notice of Health Care Claim.

2-28 Names [~~(Here list the name)~~] and current addresses
2-29 [~~address~~] of treating [~~such~~] physicians or health care providers,
2-30 if applicable: [→]

- 2-31 1. _____
- 2-32 2. _____
- 2-33 3. _____
- 2-34 4. _____
- 2-35 5. _____
- 2-36 6. _____
- 2-37 7. _____
- 2-38 8. _____

2-39 C. Exclusions

2-40 1. Providers excluded from authorization.

2-41 The [~~Excluded Health Information--the~~] following constitutes
2-42 a list of physicians or health care providers possessing health
2-43 care information concerning _____ (patient) to whom [~~which~~]
2-44 this authorization does not apply because I contend that such
2-45 health care information is not relevant to the damages being
2-46 claimed or to the physical, mental, or emotional condition of
2-47 _____ (patient) arising out of the claim made the basis of the
2-48 accompanying Notice of Health Care Claim. List the names [~~(Here~~
2-49 ~~state "none" or list the name)~~] of each physician or health care
2-50 provider to whom this authorization does not extend and the
2-51 inclusive dates of examination, evaluation, or treatment to be
2-52 withheld from disclosure, or state "none":

- 2-53 1. _____
- 2-54 2. _____
- 2-55 3. _____
- 2-56 4. _____
- 2-57 5. _____
- 2-58 6. _____
- 2-59 7. _____
- 2-60 8. _____ [→]

2-61 2. By initialing below, the patient or patient's
2-62 personal or legal representative excludes the following
2-63 information from this authorization:

- 2-64 _____ HIV/AIDS test results and/or treatment
- 2-65 _____ Drug/alcohol/substance abuse treatment
- 2-66 _____ Mental health records (mental health records
2-67 do not include psychotherapy notes)
- 2-68 _____ Genetic information (including genetic test
2-69 results)

3-1 D. The persons or class of persons to whom the patient's
3-2 health information and billing records [~~of _____ (patient)~~]
3-3 will be disclosed or who will make use of said information are:

3-4 1. Any and all physicians or health care providers
3-5 providing care or treatment to _____ (patient);

3-6 2. Any liability insurance entity providing liability
3-7 insurance coverage or defense to any physician or health care
3-8 provider to whom Notice of Health Care Claim has been given with
3-9 regard to the care and treatment of _____ (patient);

3-10 3. Any consulting or testifying experts employed by or
3-11 on behalf of _____ (name of physician or health care provider
3-12 to whom Notice of Health Care Claim has been given) with regard to
3-13 the matter set out in the Notice of Health Care Claim accompanying
3-14 this authorization;

3-15 4. Any attorneys (including secretarial, clerical,
3-16 experts, or paralegal staff) employed by or on behalf of _____
3-17 (name of physician or health care provider to whom Notice of Health
3-18 Care Claim has been given) with regard to the matter set out in the
3-19 Notice of Health Care Claim accompanying this authorization;

3-20 5. Any trier of the law or facts relating to any suit
3-21 filed seeking damages arising out of the medical care or treatment
3-22 of _____ (patient).

3-23 E. This authorization shall expire upon resolution of the
3-24 claim asserted or at the conclusion of any litigation instituted in
3-25 connection with the subject matter of the Notice of Health Care
3-26 Claim accompanying this authorization, whichever occurs sooner.

3-27 F. I understand that, without exception, I have the right to
3-28 revoke this authorization at any time by giving notice in writing to
3-29 the person or persons named in Section B above of my intent to
3-30 revoke this authorization. I understand that prior actions taken
3-31 in reliance on this authorization by a person that had permission to
3-32 access my protected health information will not be affected. I
3-33 further understand the consequence of any such revocation as set
3-34 out in Section 74.052, Civil Practice and Remedies Code.

3-35 G. I understand that the signing of this authorization is
3-36 not a condition for continued treatment, payment, enrollment, or
3-37 eligibility for health plan benefits.

3-38 H. I understand that information used or disclosed pursuant
3-39 to this authorization may be subject to redisclosure by the
3-40 recipient and may no longer be protected by federal HIPAA privacy
3-41 regulations.

3-42 Name of Patient

3-43 _____
3-44 Signature of Patient/Personal or Legal Representative
3-45 [~~Patient/Representative~~]

3-46 _____
3-47 [Date

3-48 _____
3-49 [~~Name of Patient/Representative~~
3-50 _____]

3-51 Description of Personal or Legal Representative's Authority

3-52 _____
3-53 Date

3-54 _____
3-55 SECTION 2. This Act takes effect immediately if it receives
3-56 a vote of two-thirds of all the members elected to each house, as
3-57 provided by Section 39, Article III, Texas Constitution. If this
3-58 Act does not receive the vote necessary for immediate effect, this
3-59 Act takes effect September 1, 2017.

3-60 * * * * *