

1-1 By: Fallon S.B. No. 1565  
 1-2 (In the Senate - Filed March 5, 2019; March 14, 2019, read  
 1-3 first time and referred to Committee on Health & Human Services;  
 1-4 April 16, 2019, reported favorably by the following vote: Yeas 9,  
 1-5 Nays 0; April 16, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to the medical authorization required to release protected  
 1-20 health information in a health care liability claim.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 74.052(c), Civil Practice and Remedies  
 1-23 Code, is amended to read as follows:

1-24 (c) The medical authorization required by this section  
 1-25 shall be in the following form and shall be construed in accordance  
 1-26 with the "Standards for Privacy of Individually Identifiable Health  
 1-27 Information" (45 C.F.R. Parts 160 and 164).

1-28 AUTHORIZATION FORM FOR RELEASE OF PROTECTED HEALTH INFORMATION

1-29 Patient Name:\_\_\_\_\_ Patient Date [~~Place~~] of Birth:\_\_\_\_\_

1-30 Patient Address:\_\_\_\_\_

1-31 \_\_\_\_\_ Street \_\_\_\_\_ City, State, ZIP

1-32 Patient Telephone:\_\_\_\_\_ Patient E-mail:\_\_\_\_\_

1-33 NOTICE TO PHYSICIAN OR HEALTH CARE PROVIDER: THIS  
 1-34 AUTHORIZATION FORM HAS BEEN AUTHORIZED BY THE TEXAS LEGISLATURE  
 1-35 PURSUANT TO SECTION 74.052, CIVIL PRACTICE AND REMEDIES CODE. YOU  
 1-36 ARE REQUIRED TO PROVIDE THE MEDICAL AND BILLING RECORDS AS  
 1-37 REQUESTED IN THIS AUTHORIZATION.

1-38 A. I, \_\_\_\_\_ (name of patient or authorized  
 1-39 representative), hereby authorize \_\_\_\_\_ (name of physician or  
 1-40 other health care provider to whom the notice of health care claim  
 1-41 is directed) to obtain and disclose (within the parameters set out  
 1-42 below) the protected health information and associated billing  
 1-43 records described below for the following specific purposes (check  
 1-44 all that apply):

1-45  To facilitate the investigation and evaluation of  
 1-46 the health care claim described in the accompanying Notice of  
 1-47 Health Care Claim.

1-48  Defense of any litigation arising out of the claim  
 1-49 made the basis of the accompanying Notice of Health Care Claim.

1-50  Other - Specify:\_\_\_\_\_

1-51 B. The health information to be obtained, used, or disclosed  
 1-52 extends to and includes the verbal as well as written and electronic  
 1-53 and is specifically described as follows:

1-54 1. The health information and billing records in the  
 1-55 custody of the physicians or health care providers who have  
 1-56 examined, evaluated, or treated \_\_\_\_\_ (patient) in connection  
 1-57 with the injuries alleged to have been sustained in connection with  
 1-58 the claim asserted in the accompanying Notice of Health Care Claim.

1-59 Names and current addresses of treating physicians or  
 1-60 health care providers:

1-61 1. \_\_\_\_\_

- 2-1 2. \_\_\_\_\_
- 2-2 3. \_\_\_\_\_
- 2-3 4. \_\_\_\_\_
- 2-4 5. \_\_\_\_\_
- 2-5 6. \_\_\_\_\_
- 2-6 7. \_\_\_\_\_
- 2-7 8. \_\_\_\_\_

2-8 This authorization extends to an additional physician or  
 2-9 health care provider that may in the future evaluate, examine, or  
 2-10 treat \_\_\_\_\_ (patient) for injuries alleged in connection with  
 2-11 the claim made the basis of the attached Notice of Health Care Claim  
 2-12 only if the claimant gives notice to the recipient of the attached  
 2-13 Notice of Health Care Claim of that additional physician or health  
 2-14 care provider;

2-15 2. The health information and billing records in the  
 2-16 custody of the following physicians or health care providers who  
 2-17 have examined, evaluated, or treated \_\_\_\_\_ (patient) during a  
 2-18 period commencing five years prior to the incident made the basis of  
 2-19 the accompanying Notice of Health Care Claim.

2-20 Names and current addresses of treating physicians or  
 2-21 health care providers, if applicable:

- 2-22 1. \_\_\_\_\_
- 2-23 2. \_\_\_\_\_
- 2-24 3. \_\_\_\_\_
- 2-25 4. \_\_\_\_\_
- 2-26 5. \_\_\_\_\_
- 2-27 6. \_\_\_\_\_
- 2-28 7. \_\_\_\_\_
- 2-29 8. \_\_\_\_\_

2-30 C. Exclusions

2-31 1. Providers excluded from authorization.

2-32 The following constitutes a list of physicians or health care  
 2-33 providers possessing health care information concerning \_\_\_\_\_  
 2-34 (patient) to whom this authorization does not apply because I  
 2-35 contend that such health care information is not relevant to the  
 2-36 damages being claimed or to the physical, mental, or emotional  
 2-37 condition of \_\_\_\_\_ (patient) arising out of the claim made the  
 2-38 basis of the accompanying Notice of Health Care Claim. List the  
 2-39 names of each physician or health care provider to whom this  
 2-40 authorization does not extend and the inclusive dates of  
 2-41 examination, evaluation, or treatment to be withheld from  
 2-42 disclosure, or state "none":

- 2-43 1. \_\_\_\_\_
- 2-44 2. \_\_\_\_\_
- 2-45 3. \_\_\_\_\_
- 2-46 4. \_\_\_\_\_
- 2-47 5. \_\_\_\_\_
- 2-48 6. \_\_\_\_\_
- 2-49 7. \_\_\_\_\_
- 2-50 8. \_\_\_\_\_

2-51 2. By initialing below, the patient or patient's  
 2-52 personal or legal representative excludes the following  
 2-53 information from this authorization:

- 2-54 \_\_\_\_\_ HIV/AIDS test results and/or treatment
- 2-55 \_\_\_\_\_ Drug/alcohol/substance abuse treatment
- 2-56 \_\_\_\_\_ Mental health records (mental health records  
 2-57 do not include psychotherapy notes)
- 2-58 \_\_\_\_\_ Genetic information (including genetic test  
 2-59 results)

2-60 D. The persons or class of persons to whom the patient's  
 2-61 health information and billing records will be disclosed or who  
 2-62 will make use of said information are:

2-63 1. Any and all physicians or health care providers  
 2-64 providing care or treatment to \_\_\_\_\_ (patient);

2-65 2. Any liability insurance entity providing liability  
 2-66 insurance coverage or defense to any physician or health care  
 2-67 provider to whom Notice of Health Care Claim has been given with  
 2-68 regard to the care and treatment of \_\_\_\_\_ (patient);

2-69 3. Any consulting or testifying experts employed by or

3-1 on behalf of \_\_\_\_\_ (name of physician or health care provider  
3-2 to whom Notice of Health Care Claim has been given) with regard to  
3-3 the matter set out in the Notice of Health Care Claim accompanying  
3-4 this authorization;

3-5 4. Any attorneys (including secretarial, clerical,  
3-6 experts, or paralegal staff) employed by or on behalf of \_\_\_\_\_  
3-7 (name of physician or health care provider to whom Notice of Health  
3-8 Care Claim has been given) with regard to the matter set out in the  
3-9 Notice of Health Care Claim accompanying this authorization;

3-10 5. Any trier of the law or facts relating to any suit  
3-11 filed seeking damages arising out of the medical care or treatment  
3-12 of \_\_\_\_\_ (patient).

3-13 E. This authorization shall expire upon resolution of the  
3-14 claim asserted or at the conclusion of any litigation instituted in  
3-15 connection with the subject matter of the Notice of Health Care  
3-16 Claim accompanying this authorization, whichever occurs sooner.

3-17 F. I understand that, without exception, I have the right to  
3-18 revoke this authorization at any time by giving notice in writing to  
3-19 the person or persons named in Section B above of my intent to  
3-20 revoke this authorization. I understand that prior actions taken  
3-21 in reliance on this authorization by a person that had permission to  
3-22 access my protected health information will not be affected. I  
3-23 further understand the consequence of any such revocation as set  
3-24 out in Section 74.052, Civil Practice and Remedies Code.

3-25 G. I understand that the signing of this authorization is  
3-26 not a condition for continued treatment, payment, enrollment, or  
3-27 eligibility for health plan benefits.

3-28 H. I understand that information used or disclosed pursuant  
3-29 to this authorization may be subject to redisclosure by the  
3-30 recipient and may no longer be protected by federal HIPAA privacy  
3-31 regulations.

3-32 Name of Patient

3-33 \_\_\_\_\_

3-34 Signature of Patient/Personal or Legal Representative

3-35 \_\_\_\_\_

3-36 Description of Personal or Legal Representative's Authority

3-37 \_\_\_\_\_

3-38 Date

3-39 \_\_\_\_\_

3-40 SECTION 2. This Act takes effect September 1, 2019.

3-41

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