

SUBJECT: Timely release of medical records

COMMITTEE: Public Health — favorable, with amendment

VOTE: 9 ayes — Gray, Coleman, Capelo, Delisi, Glaze, Hilderbran, Maxey,
McClendon, Uresti

0 nays

WITNESSES: None

BACKGROUND: The Texas Medical Practice Act requires physicians to furnish within 30 days copies of medical records pursuant to a written request signed by the patient or the legal guardian or parent of a minor patient.

Physicians may refuse to furnish copies of medical records if they determine that access to the information would be harmful to the patient. They may also delete confidential information about another patient or family member who has not consented to the release. If a physician denies the request, in whole or in part, the physician must furnish the patient a written statement explaining the reason for the denial and place a copy of that statement in the patient's medical records.

DIGEST: HB 27 would require physicians to furnish a copy of a patient's complete medical records to the patient or to a subsequent or consulting physician within 15 business days of receiving a written request for the records. This duty to provide records to another physician could not be nullified by contract.

HB 27 also would require the Texas Board of Medical Examiners to adopt rules establishing conditions under which the board could temporarily appoint a custodian of a physician's records in situations involving the death, mental or physical incapacitation, or abandonment of medical records by a physician. The rules would have to provide for the release of medical records and fees charged by the appointed custodian.

HB 27 would take effect January 1, 2000.

**SUPPORTERS
SAY:**

HB 27 would ensure that patients and their consulting or subsequent physicians can get medical records from the patient's original doctor in a timely manner by reducing the amount of time a physician would have to release the records from 30 to 15 days.

Having appropriate medical records on hand is essential in properly treating patients who have changed doctors or who seek second opinions. There is nothing in the current law that requires a patient's original physician to release medical records within a specified time period to other authorized doctors, and some doctors take advantage of this.

When a doctor dies or is otherwise unavailable, patients may have difficulty obtaining the medical records they need for continued treatment of their medical conditions. HB 27 would set up a means to enable patients to get access to their medical records in these circumstances. The Board of Medical Examiners has no desire to unduly meddle in the business affairs of physicians, and the rulemaking process would ensure that its authority to appoint a guardian would be limited to the most urgent situations.

HB 27 would not affect a doctor's existing authority to refuse to release records if doing so would be harmful to the physical, mental, or emotional health of the patient. Doctors with compelling reasons to refuse release of medical records could provide a written statement of their reasons for refusing to do so.

**OPPONENTS
SAY:**

HB 27 could lead to unwarranted state intervention in the business affairs of doctors, because the bill would not specifically define what urgent conditions would warrant the appointment of a custodian. For example, the bill would allow the State Board of Medical Examiners to appoint a custodian of medical records if a doctor "abandoned" medical records, but would not specify what would constitute such abandonment. This could result in abuse, in which doctors with legitimate reasons to retain their patients' medical records could be declared to have abandoned their records.

NOTES:

The committee amendment would replace the word "notwithstanding" with the term "In accordance with" in a reference to a previous section of the law.

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The Public Health Committee sent HB 27 to the Local and Consent Calendars Committee, which on April 30 transferred the bill to the Calendars Committee.