

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1779
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State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the Occupations Code is ambiguous as to when a physician's office is required to release medical records under a court subpoena or order when the patient is not a party to the case. The statute for hospitals is clear, as hospitals may release records under any subpoena when the patient is a party to the case. If the patient is not a party to the case, a hospital does not disclose the information unless there is a court order. C.S.H.B. 1779 brings the same clarity that hospitals enjoy to physician offices by aligning the Occupations Code with the Health and Safety Code, which governs hospitals. This uniformity will alleviate an administrative burden on physician offices and ensure patient confidentiality is protected in the release of records. This clarification is especially important as different types of health care providers often partner together and operate within the same system.

C.S.H.B. 1779 ensures confidentiality between the physician and the patient remains intact, and strikes "court subpoena" to distinguish from "court order."

C.S.H.B. 1779 amends current law relating to the disclosure in a certain judicial proceedings of confidential communications between a physician and a patient and confidential patient records.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 159.002, Occupations Code, by adding Subsections (f) and (g), as follows:

(f) Provides that a communication or record that is otherwise confidential and privileged under this section, notwithstanding any other provision of this chapter other than Sections 159.003(a)(10) (providing an exception to the privilege of confidentiality in a criminal prosecution in which the patient is a victim, witness, or defendant) and (c) (providing that records or communications are not discoverable under Subsection (a)(10) until the court in which the prosecution is pending makes an in camera determination), may be disclosed or released by a physician without the patient's authorization or consent if the disclosure or release is related to a judicial proceeding in which the patient is a party and the disclosure or release is requested under a subpoena issued under:

- (1) the Texas Rules of Civil Procedure;
- (2) the Code of Criminal Procedure; or
- (3) Chapter 121 (Acknowledgements and Proofs of Written Instruments), Civil Practice and Remedies Code.

(g) Provides that Subsection (f) does not prevent a physician from claiming, or otherwise limit the authority of a physician to claim, the privilege of confidentiality on behalf of a patient.

SECTION 2. Amends Section 159.003(a), Occupations Code, as follows:

(a) Provides that an exception to the privilege of confidentiality in a court or administrative proceeding exists:

(1)-(10) Makes no change to these subdivisions;

(11) Makes a nonsubstantive change;

(12) to a court or a party to an action under a court order, rather than under a court order or court subpoena.

SECTION 3. Effective date: September 1, 2015.