

BILL ANALYSIS

Senate Research Center
80R4809 YDB-D

S.B. 590
By: Nelson
Health & Human Services
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Many medical agents find themselves ill-equipped to make needed decisions on a timely basis due to a lack of understanding of the patient's medical condition. Currently, medical agents cannot obtain access to key medical information until after the patient is deemed incompetent. If there are questions of competency or complicated medical decisions that need to be made upon a competency determination, the medical agent will not have take access to the patient's records to make informed decisions.

As proposed, S.B. 590 allows medical agents to access a patient's inpatient hospital chart upon admission, thereby allowing them to understand the nuances of the patient's condition before having to make key medical decisions. This bill also allows the agent to obtain a second opinion if needed on the patient's competency. A patient may limit access to certain private medical information through certain medical power of attorney documents.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 166.163, Health and Safety Code, to include text in the FORM OF DISCLOSURE STATEMENT authorizing a designated agent (agent) to have access to hospital records related to the condition or treatment for which the principal was admitted prior to a principal being declared incompetent. Authorizes limitations to be placed on the additional authority given to the agent.

SECTION 2. Amends Section 166.164, Health and Safety Code, to include a new section entitled ADDITIONAL AUTHORITY OF AGENT, and the language of that section, in the document FORM OF MEDICAL POWER OF ATTORNEY (form). Retitles a section of the form to read LIMITATIONS ON THE AUTHORITY OF MY AGENT ARE AS FOLLOWS.

SECTION 3. Amends Subchapter D, Chapter 166, Health and Safety Code, by adding Section 166.1571, as follows:

Sec. 166.1571. ADDITIONAL AUTHORITY TO RELEASE HOSPITAL RECORDS TO DESIGNATED AGENT. (a) Provides that this section applies only to a principal not already certified as incompetent under Section 166.152(b) (authorizing the agent to exercise authority only if a physician files written certification into the principal's medical record stating that the principal is incompetent) and who has authorized, via a medical power of attorney, the release of hospital records as described by Subsection (b).

(b) Requires a hospital, if requested by the agent and after admission of the principal to a hospital, to release to the agent the hospital records of the principal for that admission and any other records the hospital has in its possession which relate to the condition or treatment for which the principal was admitted.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2007.