

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 549
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Health & Human Services
5/14/2021
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Medical or mental health professionals can often prevent patient self-harm or harm to others when the professional discloses confidential information about a patient who displays behaviors that would cause the professional to believe that the patient is likely to cause imminent physical injury. There are concerns, however, that current law does not sufficiently protect health professionals who disclose confidential information for this purpose. H.B. 549 would address these concerns by protecting health professionals when they share information in order to avoid harm to their patients and those with whom their patients may interact. H.B. 549 provides that no cause of civil, criminal, or administrative action exists against a mental health professional who discloses confidential information if the provider believes there is a probability of imminent physical injury to the patient or others.

C.S.H.B. 549 amends current law relating to exemptions from liability for certain professionals for the disclosure of certain mental health information.

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 611.002, Health and Safety Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Includes Section 611.0041 (Required Disclosure of Confidential Information Other Than in Judicial or Administrative Proceeding) among the exceptions to the provision that confidential communications between a patient and a professional or records are prohibited from being disclosed.

(b-1) Provides that no exception to the privilege of confidentiality under Section 611.004 may be construed to create an independent duty or requirement to disclose the confidential information to which the exception applies.

SECTION 2. Amends Section 611.004, Health and Safety Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Authorizes a professional to disclose confidential information only:

(1) makes no changes to this subdivision;

(2) to medical, mental health, or law enforcement personnel, rather than to medical or law enforcement personnel, if the professional determines that there is a probability of imminent physical injury by the patient to the patient or others or there is a probability of immediate mental or emotional injury to the patient;

(3) - (11) makes no changes to these subdivisions.

(a-1) Provides that no civil, criminal, or administrative cause of action exists against a person described by Section 611.001(2)(A) (relating to the term "professional" meaning a

person authorized to practice medicine in any state or nation) or (B) (relating to the term "professional" meaning a person licensed or certified by this state to diagnose, evaluate, or treat any mental or emotional condition or disorder) for the disclosure of confidential information under Subsection (a)(2). Requires that a cause of action brought against the person for the disclosure of the confidential information be dismissed with prejudice.

SECTION 3. Amends Section 159.002, Occupations Code, by adding Subsection (c-1), as follows:

(c-1) Provides that no exception to the privilege of confidentiality under Section 159.003 (Exceptions to Confidentiality in Court or Administrative Proceedings) or Section 159.004 may be construed to create an independent duty or requirement to disclose the confidential information to which this exception applies.

SECTION 4. Amends Section 159.004, Occupations Code, as follows:

Sec. 159.004. EXCEPTIONS TO CONFIDENTIALITY IN OTHER SITUATIONS. (a) Creates this subsection from existing text. Provides that an exception to the privilege of confidentiality in a situation other than a court or administrative proceeding, allowing disclosure of confidential information by a physician, exists only with respect to the following:

(1) makes no changes to this subdivision;

(2) medical, mental health, or law enforcement personnel, rather than medical or law enforcement personnel, if the physician determines that there is a probability of:

(A) imminent physical injury to the patient, the physician, or another person; or

(B) immediate mental or emotional injury to the patient;

(3) - (9) makes no changes to these subdivisions.

(b) Provides that no civil, criminal, or administrative cause of action exists against a physician for the disclosure of confidential information in accordance with Subsection (a)(2). Requires that a cause of action brought against a physician for the disclosure of the confidential information be dismissed with prejudice.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2021.