

SUBJECT: Timely release of medical records

COMMITTEE: Public Health — committee substitute recommended

VOTE: 5 ayes — Berlanga, Hirschi, Davila, Delisi, Glaze
0 nays
4 absent — Coleman, Janek, Maxey, Rodriguez

WITNESSES: For — C.J. Francisco, Texas Medical Association
Against — None

DIGEST: CSHB 3514 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 days of receiving a request for the records. This duty could not be nullified by contract. If the physician denied the request, in whole or in part, the physician would have to furnish a signed and dated statement of the reason for the denial and place a copy of the statement in the patient's records.

CSHB 3514 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.

CSHB 3514 would take effect January 1, 1998.

SUPPORTERS SAY: CSHB 3514 would ensure that patients and their consulting or subsequent physicians can get medical records from the patient's original doctor in a timely manner. If a patient changes doctors or seeks a second opinion, the original doctor may not have an incentive to send the patient's medical records to the new doctor in a timely manner. There is nothing in the current law to require the patient's original physician to release medical records in a timely fashion to other authorized doctors. CSHB 3514 would

ensure that the original physician responded promptly to a request from either the patient or the patients other doctors by reducing the amount of time a physician has to release the records from 30 to 15 days.

When a doctor dies or is otherwise unavailable, patients may have difficulty obtaining the medical records they need for treatment of medical conditions. CSHB 3514 would set up a system to enable patients to get access to their medical records in these circumstances.

CSHB 5314 would not affect a doctor's 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. CSHB 3514 would simply ensures that, when appropriate, other physicians could get access to a patient's medical records in a timely fashion.

**OPPONENTS
SAY:**

The ambiguous wording of CSHB 3514 could lead to unwarranted state intervention in the business affairs of doctors. 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, whereby doctors with legitimate reasons to retain patients' medical records are declared to have abandoned their records in order to circumvent their authority.

NOTES:

The committee substitute made the effective date applicable to both sections of the bill.