

BILL ANALYSIS

Senate Research Center

S.B. 1906
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Health Services
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As Filed

DIGEST

Current law provides for the confidentiality of medical patient records, but does not extend the same protection to dental patient records. S.B. 1906 provides for the confidentiality of dental patient records, with certain exceptions.

PURPOSE

As proposed, S.B. 1906 creates a privilege for dental records and communications with a dentist and sets forth requirements for the availability of dental records.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 4549-2, V.T.C.S., as follows:

Art. 4549-2. New heading: DENTAL PRIVILEGE; RECORDS OF THE DENTIST

Sec. 1. DEFINITIONS. Defines "board," "dental record," "dentist," "patient," and "privilege."

Sec. 2. SCOPE OF PRIVILEGE. Sets forth certain information which is prohibited from being disclosed except as provided by this article. Provides that the privilege described by this section applies regardless of when a patient received the professional service from the dentist.

Sec. 3. HOLDER OF PRIVILEGE. Provides that the patient is the holder of privilege. Sets forth certain persons authorized to claim a privilege on a patient's behalf. Provides that a person's authority to claim a privilege is presumed in the absence of evidence to the contrary.

Sec. 4. CONSENT TO DISCLOSURE OF PRIVILEGED INFORMATION. Authorizes a person to disclose privileged information, if the patient consents to the disclosure as provided in this section. Sets forth certain signatures of a consent for the release of privileged information which must be in writing. Sets forth the information required to be specified in a consent required under this section. Authorizes a person to withdraw consent granted under this section by notifying in writing the person who maintains the information. Provides that withdrawal of consent does not affect information disclosed before the written notice of the withdrawal was delivered.

Sec. 5. EXCEPTION TO PRIVILEGE FOR CERTAIN PROCEEDINGS. Sets forth the conditions under which a privilege does not apply in a court or administrative proceeding. Sets forth certain dental records to which the privilege does not apply. Prohibits the State Board of Dental Examiners (board) from revealing the identity of a patient whose dental record is disclosed under Subsection (b) of this section. Sets forth the conditions under which privileged information is discoverable. Sets forth the conditions under which privileged information is admissible in a criminal prosecution.

Sec. 6. EXCEPTION FOR CERTAIN DISCLOSURES BY DENTIST. Sets forth the conditions under which a privilege does not apply to the disclosure of information by a dentist to certain parties under certain conditions. Prohibits a person who receives information under Subsection (a) (3) of this section from disclosing a patient's identity in writing. Authorizes a

record reflecting a charge or specific service provided to be disclosed only under certain circumstances.

Sec. 7. EXCEPTION TO PRIVILEGE FOR CERTAIN LEGISLATIVE INQUIRIES. Sets forth the conditions under which a state hospital or state school may disclose a dental record.

Sec.8. LIMIT ON DISCLOSURE. Authorizes a person who receives privileged information to disclose the information to another person only to the extent consistent with the purpose for which the information was obtained.

Sec. 9. REQUEST FOR DENTAL RECORD: TIMING; EXCEPTION. Requires a dentist to disclose a dental record within a reasonable period after it is requested but not later than a certain date, if disclosure of a dental record is authorized under this article. Authorizes a dentist to refuse to disclose the requested record, if the dentist determines that providing the information would be harmful to the physical, mental, or emotional health of the patient. Requires the dentist to notify a person requesting the record and explain why the information would be harmful, if the dentist determines that disclosing the record would be harmful. Authorizes a person requesting a record to challenge in court a dentist's refusal to disclose the record. Authorizes the court to order the disclosure of the record and award costs and attorney's fees incurred by the person to obtain the information, if the court determines that the dentist made the refusal in bad faith. Requires a dentist to redact privileged information about another person, in disclosing a dental record under this section. Authorizes a dentist to charge a reasonable fee for providing a dental record under this section. Provides that for purposes of this subsection, a fee established under Section 241.154, Health and Safety Code, is a reasonable fee.

Sec. 10. TRANSFER OF DENTAL RECORDS. Requires records of the diagnosis made and the treatment performed for and on a dental patient to be the property of the dentist who performs the dental service and may not be sold, pledged as collateral, or otherwise transferred to any person other than the patient unless the transfer is made in compliance with this article and rules relating to the transfer of records as may be adopted by the board. Requires nothing herein to prevent the voluntary submission of records of insurance companies for the purpose of determining when consent for the disclosure has been granted under Section 4 of this article.

SECTION 2. Effective date: September 1, 1999.
Makes application of this Act prospective.

SECTION 3. Emergency clause.